



JUDICIAL ACADEMY, JHARKHAND

Tri-Monthly Newsletter

(January 2026 - March 2026)



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From the Desk of the Judicial Academy, Jharkhand

We are pleased to present the first issue of the Tri-Monthly Newsletter of the Judicial Academy, Jharkhand for the year 2026, covering the period from January to March 2026. This edition reflects the Academy's continued commitment to strengthening judicial capacity, enhancing institutional efficiency, and promoting professional excellence across the justice delivery system.

During the quarter under review, the Academy organised a series of training programmes, refresher courses, conferences, and capacity-building initiatives addressing diverse dimensions of judicial administration, substantive and procedural law, and technological advancement in courts. These included specialised refresher programmes for Registrars and Judges In-Charge of District Courts and Sub-Divisions, focusing on financial administration, service rules, and the duties and responsibilities of court officers under the Civil and Criminal Court Rules of the High Court of Jharkhand.

A significant emphasis during this period was placed on digital transformation and strengthening of e-Courts initiatives. The Academy

organised programmes on e-Courts applications, digitisation, and electronic court processes, along with training sessions for ministerial staff and trainers aimed at enhancing computer literacy, electronic documentation, and effective utilisation of digital platforms in court administration. These initiatives are part of the ongoing effort to build institutional capacity and ensure the smooth implementation of technology-driven reforms across the judicial system.

The quarter also witnessed important academic engagements and collaborative initiatives. Notably, The National Judicial Academy, Bhopal, in collaboration with the High Court of Jharkhand and the Judicial Academy, Jharkhand, organised the East Zone-I Regional Conference at the Judicial Academy, Jharkhand, bringing together judicial officers and experts to deliberate upon the evolving role of technology in strengthening the rule of law and improving the efficiency of justice delivery.

Additionally, the Academy hosted thematic programmes addressing cyber crime, digital evidence, and emerging technological challenges in adjudication, including a State-Level Conference

on the speedy and qualitative disposal of cyber crime cases. These deliberations highlighted the growing importance of technological competence in addressing contemporary legal issues and ensuring effective judicial responses to emerging forms of crime.

This newsletter presents concise accounts of the programmes conducted during the quarter, capturing the key themes, expert deliberations, and practical insights shared during the sessions. It is intended not only as a record of the Academy's academic activities but also as a continuing resource for judicial officers, court staff, and members of the legal fraternity committed to strengthening the administration of justice.

We express our sincere gratitude to Hon'ble the Chief Justice and Hon'ble Judges of the High Court

of Jharkhand for their constant guidance and encouragement in advancing the academic and institutional objectives of the Judicial Academy. We also acknowledge with appreciation the valuable contributions of distinguished resource persons, senior judicial officers, academicians, and subject experts whose expertise enriched the Academy's programmes.

Above all, we deeply appreciate the enthusiastic participation and dedication of judicial officers, court staff, advocates, and other stakeholders whose commitment to continuous learning remains central to strengthening the justice delivery system in the State.

Happy Reading!

Judicial Academy, Jharkhand

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- This Newsletter is intended for Private Circulation Only.
- The information contained in this newsletter is intended for information purposes only and should not be construed as legal advice on any subject matter.
- The cases and content provided are for educational purposes and illustrative understanding. For a comprehensive understanding, readers are encouraged to refer to the complete case laws and official sources.
- The government schemes, sections, and rules mentioned in this newsletter are intended solely for professional understanding. For complete and authoritative information, readers are advised to refer to the relevant Bare Acts and official legal documents.

FOREWORD

It gives me great pleasure to present this Tri-Monthly Newsletter of the Judicial Academy, Jharkhand for the period January to March, 2026. As a regular publication of the Academy, this newsletter seeks to encapsulate the key academic and training initiatives undertaken during the quarter, while reflecting our continued commitment to strengthening judicial capacity and institutional excellence.

During the period under review, the Academy continued its endeavours to organise programmes aimed at enhancing professional competence, promoting efficiency in judicial processes, and fostering a culture of continuous learning, with emphasis on aligning judicial education with contemporary legal developments and strengthening the institutional framework for effective justice delivery. It has also maintained a focus on integrating technological advancements into judicial functioning and capacity-building, thereby promoting accessibility, transparency, responsiveness, and sustained intellectual engagement within the judicial fraternity.

I express my sincere gratitude to Hon'ble the Chief Justice and Hon'ble Judges of the High Court of Jharkhand for their constant guidance and encouragement, which continue to inspire and shape the activities of the Academy. I also acknowledge the dedicated contributions of the faculty members, resource persons, and administrative staff, whose sustained efforts ensure the successful implementation of the Academy's programmes.

I further appreciate the commendable work of the Research Scholars and the editorial team in compiling and presenting this newsletter.

As this is a tri-monthly publication, it not only records the activities of the preceding quarter but also serves as a reflection of the Academy's evolving vision. In the forthcoming issues, the Academy aims to further broaden the scope of its programmes with increased focus on emerging areas of law, advanced technological training, and innovative methods of judicial education, in order to meet the growing and dynamic needs of the justice delivery system.

It is hoped that this newsletter will continue to serve as a meaningful resource for members of the judicial fraternity.

Warm Regards,

Shri Rajesh Sharan Singh
Director
Judicial Academy, Jharkhand

January, 2026

CONFERENCE ON JUDICIAL ETHICS AND BEHAVIOUR FOR JUDICIAL OFFICERS & NEWLY ENROLLED ADVOCATES (C-3)



The Judicial Academy, Jharkhand organized a Conference on “Judicial Ethics and Behaviour for Judicial Officers & Newly Enrolled Advocates (C-3)” on 4th January 2026, aimed at sensitising participants on the foundational principles of judicial ethics, professional conduct, and the standards expected within the justice delivery system. The programme was attended by Judicial Officers and newly enrolled Advocates, fostering a shared understanding of ethical responsibilities across both the Bench and the Bar.

The programme commenced with a technical session delivered by *Sri Rishabh Sancheti, Advocate, Supreme Court of India, New Delhi*, who addressed the participants on “Elements of Judicial Behaviour: Ethics, Neutrality and Professionalism.” The session emphasised the core values underlying judicial functioning, including impartiality, integrity, objectivity, and adherence to professional standards. The deliberations highlighted the importance of maintaining ethical neutrality and professional discipline in legal practice and adjudication.

The session further continued with an in-depth discussion on the above themes, enabling participants to engage with the practical dimensions of ethical conduct and the expectations placed upon members of the legal profession in ensuring fairness and credibility in judicial processes.

A separate session for Judicial Officers was conducted on “Judicial Ethics: Conduct Inside and Outside of Court” by *Sri Rajesh Sharan Singh, Director, Judicial Academy, Jharkhand*, and

Sri Satyakam Priyadarshi, Additional Director, Judicial Academy, Jharkhand. The session focused on the standards of behaviour expected from judicial officers both within the courtroom and in their personal and public lives, underscoring the importance of maintaining dignity, propriety, and public confidence in the judiciary.



Overall, the programme provided valuable insights into ethical principles and professional conduct, contributing to strengthening the ethical foundation of both judicial officers and newly enrolled advocates, and reinforcing the integrity of the justice delivery system.

STATE-LEVEL CONFERENCE ON SPEEDY AND QUALITATIVE DISPOSAL OF CYBER CRIME CASES: ISSUES, CHALLENGES & SOLUTIONS (C-4) AND CYBER LAWS: APPRECIATION & HANDLING OF DIGITAL EVIDENCE (ECT-14)



The Judicial Academy, Jharkhand organized a State-Level Conference on “Speedy and Qualitative Disposal of Cyber Crime Cases: Issues, Challenges & Solutions (C-4) and Cyber Laws: Appreciation & Handling of Digital Evidence (ECT-14)” on 18th January 2026 at Ranchi. The programme aimed to deliberate upon the emerging challenges posed by cyber crimes and to strengthen the capacity of judicial officers and stakeholders in the appreciation, preservation, and handling of digital evidence in criminal trials.



The Welcome-cum-Introductory Address was delivered by *Hon'ble Mr. Justice Rongon Mukhopadhyay, Judge, High Court of Jharkhand-cum-Judge-In-Charge, Judicial Academy, Jharkhand*, who highlighted the growing complexity of cyber offences and the pressing need for coordinated institutional responses involving the judiciary, investigators, and prosecutors.



The Special Address was delivered by *Hon'ble Mr. Justice Sujit Narayan Prasad, Judge, High Court of Jharkhand*, who emphasised the importance of equipping judicial officers with technological awareness and legal understanding to effectively adjudicate cyber crime cases.



The Keynote Address was delivered by the Chief Guest, Hon'ble Mr. Justice M. S. Sonak, Chief Justice, High Court of Jharkhand-cum-Patron-in-Chief, Judicial Academy, Jharkhand, who underlined the significance of strengthening institutional capacity for dealing with cyber offences and highlighted the need for continuous judicial training in emerging areas of cyber law and digital evidence.



On this occasion, the book titled "AI Governance: Law, Ethics and Policy" was formally released.



The inaugural session concluded with the Vote of Thanks by Hon'ble Mr. Justice Rajesh Shankar, Judge, High Court of Jharkhand-cum-Chairman, Executive Committee, Judicial Academy, Jharkhand.



The First Technical Session focused on "Cyber Crime: Emerging Offences, Modus Operandi and Investigative Challenges." The session deliberated upon cyber offences under the Information Technology Act and other laws, registration of cyber crime cases and jurisdictional complexities, collection and preservation of digital evidence, and cyber forensic processes relating to search, seizure, and analysis of electronic records. The session was delivered by Sri Jitender Singh, ACP, Cyber Crime, I4C (MHA), New Delhi, followed by an open discussion with participants.



The Second Technical Session addressed the theme "Trial of Cyber Offences: Admissibility and Appreciation of Digital Evidence." The deliberations covered issues relating to relevancy, authenticity, and admissibility of electronic records, maintenance of the chain of custody, jurisdictional issues in cyber crime trials, and the legal framework governing digital evidence,

including the contours of Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 in light of judicial precedents. The session was delivered by *Sri Prashant Mali, Advocate, Bombay High Court*, and concluded with an interactive discussion with participants.



The Third Technical Session focused on “AI, Cyber Security and Data Protection: Challenges for

Investigation, Prosecution and Adjudication.” The session examined emerging trends in AI-enabled cyber crimes, the role of artificial intelligence in cyber crime investigation and policing, data protection obligations in criminal investigations, and the role of the judiciary and prosecutors in balancing cyber security concerns with privacy rights. The session was delivered by *Prof. (Dr.) Avinash Dadhich, Founding Director, School of Law, Dhirubhai Ambani University, Gandhinagar, Gujarat*, followed by an open interaction with the participants.

The programme concluded with discussions on the way forward, providing participants an opportunity to reflect upon the deliberations and explore practical approaches to ensuring effective investigation and adjudication of cyber crime cases. Overall, the conference served as a valuable platform for enhancing understanding of cyber offences and strengthening judicial capacity in dealing with digital evidence in the contemporary criminal justice system.



Gummadi Usha Rani v. Sure Mallikarjuna Rao, 2026 SCC OnLine SC 341

This case raised a significant issue concerning the integrity of judicial decision-making in the context of increasing reliance on Artificial Intelligence. The dispute arose from a civil suit for injunction wherein the trial court, while dismissing objections to an Advocate Commissioner’s report, relied upon several purported precedents. The petitioners challenged this before the High Court, contending that the cited judgments were non-existent and fabricated. Although the High Court acknowledged that the precedents appeared to be AI-generated and fake, it nevertheless proceeded to decide the matter on merits and upheld the trial court’s order, leading to the present Special Leave Petition before the Supreme Court.

Taking serious note of the issue, the Supreme Court emphasised that

reliance on non-existent, AI-generated precedents strikes at the core of the adjudicatory process and judicial integrity. The Court categorically held that “*a decision based on such non-existent and fake alleged judgments is not an error in the decision making. It would be a misconduct and legal consequence shall follow*”. Recognising the systemic implications, the Court issued notice to the Attorney General of India, the Solicitor General, and the Bar Council of India, and appointed Senior Advocate Shyam Divan as Amicus Curiae to assist in examining the issue. Pending further consideration, the Court directed that the trial court shall not proceed based on the Advocate Commissioner’s report, thereby underscoring the gravity of maintaining authenticity and reliability in judicial reasoning.

REPUBLIC DAY 2026





February, 2026

EAST ZONE-I REGIONAL CONFERENCE ON ADVANCING RULE OF LAW THROUGH TECHNOLOGY: CHALLENGES & OPPORTUNITIES



The National Judicial Academy, Bhopal, in collaboration with the High Court of Jharkhand and the Judicial Academy, Jharkhand, organised the *East Zone-I Regional Conference on "Advancing Rule of Law through Technology: Challenges & Opportunities"* at the Judicial Academy, Jharkhand, Ranchi on 31st January and 1st February, 2026. The conference brought together Hon'ble Judges of the Supreme Court of India, Chief Justices and Judges of various High Courts, academicians and judicial officers from the Eastern region to deliberate on the increasing role of technology in strengthening the rule of law and improving the administration of justice.



The programme commenced with the arrival of the Hon'ble dignitaries on the dais. As a mark of respect and tradition, the dignitaries were felicitated with the presentation of books and saplings, followed by the ceremonial lighting of the lamp.

Hon'ble Mr. Justice M. S. Sonak, Chief Justice of the High Court of Jharkhand and Patron-in-Chief of the Judicial Academy, Jharkhand, delivered the welcome-cum-introductory address. His Lordship emphasised the significance of integrating technology into judicial processes to enhance accessibility, efficiency and transparency in the justice delivery system.



Hon'ble Mr. Justice Aniruddha Bose, Director of the National Judicial Academy, Bhopal and former Judge of the Supreme Court of India, addressed the gathering and highlighted the importance of judicial education and collaborative dialogue in equipping the judiciary to effectively adopt technological advancements.



The keynote address was delivered by Hon'ble Mr. Justice N. Kotiswar Singh, Judge of the Supreme Court of India, who underscored the necessity of embracing technological tools to strengthen the rule of law, while ensuring inclusivity, accountability and procedural fairness within the justice delivery system.



Hon'ble Mr. Justice Joymalya Bagchi, Judge of the Supreme Court of India, also addressed the

gathering during the inaugural session and reflected upon the evolving challenges posed by digital transformation and the responsibility of courts to safeguard constitutional values in a rapidly changing technological landscape.



The inaugural session concluded with a vote of thanks delivered by Hon'ble Mr. Justice Sujit Narayan Prasad, Judge of the High Court of Jharkhand, followed by the rendition of the National Anthem.



The first technical session focused on “Bridging the Digital Divide: Role of e-Services.” Chaired by Hon'ble Mr. Justice N. Kotiswar Singh and Hon'ble Mr. Justice Joymalya Bagchi, the discussions centred on the e-Courts Project and the implementation of digital initiatives aimed at ensuring wider access to judicial services. The session examined strategies for promoting inclusivity through technology and highlighted the importance of bridging the digital divide to ensure that digital transformation benefits all sections of society.



The second technical session addressed the theme “Effective Use of Technology in Alternate Dispute Resolution.” The session was chaired by Hon’ble Mr. Justice N. Kotiswar Singh and Hon’ble Mr. Justice Aparesh Kumar Singh, Chief Justice of the High Court of Telangana. The deliberations explored the expanding role of technology in strengthening ADR mechanisms, particularly through Online Dispute Resolution platforms, intelligent decision-support systems and automated negotiation tools, which have the potential to facilitate efficient and accessible dispute resolution.



The second day of the conference featured deliberations on “Cybercrimes and Digital Forensics.” Chaired by Hon’ble Mr. Justice A. Muhamed Mustaque, Chief Justice of the High Court of Sikkim, along with Prof. Ananth Prabhu, the session examined jurisdictional issues in the adjudication of cybercrimes, the liability of intermediaries and the admissibility and appreciation of electronic evidence in judicial proceedings.



The third technical session examined “Electronic and Digital Media: Role of Courts.” Chaired by Hon’ble Mr. Justice N. Kotiswar Singh, Hon’ble Mr. Justice Joymalya Bagchi and Hon’ble Mr. Justice Ananda Sen, the session focused on issues concerning digital privacy, freedom of expression and the sanctity of judicial proceedings in the digital age. The discussions also addressed the impact of media reporting on the administration of justice and the legal challenges arising from potentially contemptuous or misleading content on digital and social media platforms.



The concluding session of the conference focused on “Improving Quality of Adjudication: Emerging and Future Technologies.” The session explored the potential role of Artificial Intelligence in judicial decision-making, the use of blockchain technology for secure record management and other emerging technological tools that could assist courts in enhancing efficiency and accuracy in adjudication.



The conference witnessed the participation of judicial officers of various cadres, including District and Sessions Judges, Chief Judicial Magistrates and members of the Computer Committees under the jurisdiction of the High Courts of Bihar, Chhattisgarh, Orissa and Jharkhand. The conference served as an important platform for exchanging ideas and experiences on the challenges and opportunities presented by technological advancements in the justice delivery system, while reaffirming the judiciary’s commitment to leveraging technology in furtherance of the rule of law.

REFRESHER TRAINING ON CIVIL LAWS FOR CIVIL JUDGE (SENIOR DIVISION – R 14)



The Judicial Academy, Jharkhand, organised a Refresher Training Programme on Civil Laws for Civil Judge (Senior Division) on 07th and 08th February, 2026 at Ranchi. The programme was designed to strengthen the knowledge and practical skills of judicial officers dealing with civil matters and to provide a platform for discussion on contemporary issues relating to civil adjudication and court administration.

The training programme commenced with the participation of Civil Judges (Senior Division) from different districts of Jharkhand. The sessions focused on key aspects of civil law and procedure, emphasising efficient case management, expeditious adjudication and the application of recent legal developments in civil litigation.



The first session addressed the theme of Court Management and Case Management: Avoiding Procedural Delay in Civil Cases. The session was conducted by Hon'ble Mr. Justice Anil Kumar

Choudhary, Judge, High Court of Jharkhand, who highlighted the importance of effective judicial management in ensuring timely disposal of cases. His Lordship emphasised practical strategies to minimise procedural delays and stressed the role of judicial discipline, proper scheduling and efficient utilisation of court resources in achieving expeditious justice.



This was followed by a session on Salient Features of Execution Proceedings and Tools for Speedy Disposal of Execution Cases, delivered by Shri Pandey

Neeraj Rai, Advocate, High Court of Jharkhand. The discussion focused on the challenges frequently encountered during execution proceedings and the procedural tools available to courts for ensuring effective enforcement of decrees. The session also highlighted best practices for expediting execution cases while maintaining procedural fairness.



The subsequent session focused on the Salient Features of the Specific Relief Act in view of recent amendments, delivered by Shri Anup Kumar, Advocate, Supreme Court of India. The resource person discussed the legislative changes introduced in the statute and their impact on civil litigation, particularly in relation to the enforcement of contractual obligations and the granting of specific relief by courts.



The second day of the programme began with a session on Customary Laws: Inheritance in Tribal Societies of Jharkhand, conducted by Dr. Shalini Saboo, Assistant Professor, Institute of Legal Studies, Ranchi University. The session provided valuable insights into the traditional legal practices governing inheritance in tribal communities and emphasised the need for judicial sensitivity while dealing with cases involving customary laws.

Another session focused on the Law of Adverse Possession vis-à-vis the Law of Limitation, along with a discussion on recent judicial pronouncements and directions of the courts. The session was conducted by Sri Amit Das, Advocate, High Court of Jharkhand, who elaborated upon the legal principles governing adverse possession and examined the evolving jurisprudence in this area through recent case law.



The programme concluded with a session on Speedy Trial as a Human Right, delivered by Hon'ble Mr. Justice Gautam Kumar Choudhary, Judge, High Court of Jharkhand. His Lordship emphasised that timely justice is an essential component of the rule of law and highlighted the constitutional significance of speedy trial in civil and criminal adjudication.



The training programme provided a meaningful platform for judicial officers to engage in discussions on practical challenges faced in civil courts and to exchange ideas on improving efficiency in civil adjudication. The programme concluded with reflections on the way forward in strengthening judicial processes and ensuring effective delivery of civil justice.



WORKSHOP ON NDPS ACT, 1985 AND POCSO ACT(W-5)



The Judicial Academy, Jharkhand organised a Workshop on the NDPS Act, 1985 and the POCSO Act on 22nd February, 2026 at Ranchi. The programme was designed for District and Additional Sessions Judges, Public Prosecutors and Police Officers, with the objective of strengthening their understanding of the legal framework, procedural safeguards and contemporary challenges involved in the adjudication and investigation of offences under these special legislations.



The workshop commenced with sessions focusing on the scheme and framework of the Narcotic Drugs and Psychotropic Substances Act, 1985, delivered by Dr. J. N. Barowalia, Former Principal Secretary (Law), Government of Himachal Pradesh, Shimla. The discussions examined the structure and objectives of the NDPS Act in the light of recent judicial pronouncements. Particular emphasis was placed on procedural safeguards in matters relating to search and seizure, highlighting the importance of strict compliance with statutory provisions to ensure fairness and legality in investigation.

Dr. Barowalia also addressed issues relating to the destruction of seized contraband and identification of land used for poppy cultivation. The session explored the procedural mechanisms prescribed under the law and the practical challenges faced by enforcement agencies and courts in dealing with such matters.



The subsequent session focused on online crimes against women and children, delivered by Ms. Aishwarya Dongre, IPS, Deputy Director, Indian Cybercrime Coordination Centre (I4C), Ministry of Home Affairs, New Delhi. The session provided insights into the nature and typologies

of cyber offences affecting women and children, including the circulation and exploitation of Child Sexual Exploitative and Abuse Material (CSEAM). The resource person also discussed the legal and evidentiary framework governing such offences under the POCSO Act, the Information Technology Act, the Indian Penal Code/Bharatiya Nyaya Sanhita and other allied laws, highlighting investigative challenges and emerging trends in cybercrime.



The workshop concluded with a session conducted by Sri Atul Shrivastav, Public Prosecutor, Indian Cybercrime Coordination Centre, Ministry of Home Affairs, New Delhi, focusing on child-friendly trials under the POCSO Act. The discussion emphasised the importance of ensuring a sensitive and supportive environment for child victims and witnesses during judicial proceedings. The session also examined the appreciation of digital and cyber forensic evidence, highlighting the growing relevance of technological expertise in the prosecution and adjudication of cyber-enabled offences.

The workshop provided an important platform for judicial officers, prosecutors and police officials to engage in meaningful discussions on the legal, procedural and technological aspects of offences under the NDPS and POCSO Acts. The deliberations helped enhance understanding of investigative practices, evidentiary requirements and child-sensitive procedures, thereby contributing to more effective adjudication and enforcement in cases involving narcotic offences and crimes against children.



State of Uttar Pradesh v. Anurudh; 2026 SCC OnLine SC 40

The Supreme Court examined the scope of powers under Section 439 CrPC in a POCSO matter. The case arose from an FIR alleging kidnapping and sexual assault of a minor girl under Sections 363 and 366 IPC and Sections 7 and 8 of the POCSO Act. While the Trial Court had rejected bail, the Allahabad High Court granted interim and regular bail and went further to conduct a detailed assessment of the victim's age, pointing out inconsistencies in school records and statements under Sections 161 and 164 CrPC. It issued broad directions mandating medical age determination in all POCSO cases at the investigation stage and held that medical opinion could override documentary evidence even at the bail stage.

The Supreme Court held that such an approach was legally impermissible. It clarified that at the bail stage, the High Court cannot conduct a "mini-trial" or undertake detailed adjudication on disputed facts like age determination, which is a matter for trial. It further held that the High Court exceeded its jurisdiction by issuing general and mandatory directions regarding investigation, including compulsory medical age tests in all POCSO cases. Accordingly, the Supreme Court set aside the impugned directions and reasoning. However, since the accused had already been granted bail and no supervening circumstances were shown, the Court declined to cancel the bail, thereby balancing correction of legal error with protection of personal liberty.

March, 2026

REFRESHER TRAINING PROGRAMME FOR REGISTRARS / JUDGE I/C OF DISTRICT COURTS AND SUB-DIVISIONS (R 15)



The Judicial Academy, Jharkhand organized a one-day Refresher Training Programme for Registrars / Judge In-Charge of District Courts and Sub-Divisions on 15th March 2026, with the objective of strengthening administrative efficiency and enhancing understanding of financial rules, service regulations, and institutional responsibilities relevant to court administration.



The programme commenced with a technical session conducted by *Sri Satya Narayan Prasad, Deputy Director (Retd.), Finance Department, Government of Jharkhand*, who delivered a brief discussion on Finance Rules and Principles of Government Accounting. The session provided participants with an overview of financial discipline, accounting procedures, and the importance of adherence to government financial rules in the management of court administration.



In the second session, *Sri Satya Narayan Prasad* elaborated on the preparation of budget, supplementary budget, and purchase procedures, highlighting the essential aspects of financial planning, budgeting processes, and procurement practices within government institutions.

The third session was conducted by *Sri Atul Kumar, Under Secretary, Urban Development and Housing Department*, who delivered a brief

discussion on the Jharkhand Service Code, with special reference to leave rules, departmental enquiries, disciplinary proceedings, and the Government Servant Code of Conduct Rules. The session focused on service conditions and disciplinary frameworks applicable to government officials, providing clarity on procedural and regulatory aspects.

The concluding session was conducted jointly by *Sri Rajesh Sharan Singh, Director, Judicial Academy, Jharkhand, and Sri Laxmikant, Additional Director-cum-Senior Faculty Member, Judicial Academy, Jharkhand*, who discussed the duties and responsibilities of Registrars / Judge In-Charge as enshrined in the Civil Court and Criminal Court Rules of the High Court of Jharkhand. The session emphasised the administrative and supervisory responsibilities of

registrars and judge-in-charge officers in ensuring effective court management and compliance with procedural rules.



Overall, the programme provided participants with valuable insights into financial administration, service regulations, and

institutional responsibilities, thereby contributing to strengthening administrative capacity within the district judiciary.



Refresher Training Programme on Civil Laws for Civil Judges (Senior Division) (R-13)



The Judicial Academy Jharkhand successfully conducted a two-day *Refresher Training Programme on Civil Laws* (Course No. R-13) on 28th and 29th March, 2026 for Civil Judges (Senior Division). The programme aimed at strengthening conceptual clarity and enhancing judicial skills in appreciation of evidence and civil adjudication.



The programme commenced on 28th March with registration and group photography, followed by an intensive academic session led by Prof. (Dr.) Kesava Rao Vurakula, Former Vice-Chancellor, NUSRL, Ranchi. The inaugural session focused on *Fundamental Concepts and Admissibility of Evidence*, where participants were guided

through the nuanced distinction between *logical relevancy* and *legal admissibility*. The speaker emphasized the importance of mastering Sections of the Evidence Act/ Bharatiya Sakshya Adhiniyam, 2023 for identifying facts in issue and relevant facts, along with the discretionary powers of judges in determining admissibility.



A notable feature of this session was the practical exercise conducted by the resource person, wherein a real-life styled example was discussed interactively in the classroom. This hands-on approach enabled participants to clearly understand the application of theoretical principles in actual judicial scenarios, making the learning process more engaging and effective.

The subsequent sessions dealt with *Burden of Proof and Presumptions*, highlighting the principles governing onus in civil cases, distinctions between “may presume”, “shall presume” and “conclusive proof”, and the doctrine of estoppel. The deliberations further extended to *Documentary and Electronic Evidence*, where the *Best Evidence Rule*, classification of public and private documents, and the evidentiary value of electronic records were discussed in detail.



On the second day, the sessions continued with active participation from judicial officers. Dr. Shalini Saboo, Assistant Professor, Institute of Legal Studies, Ranchi University, contributed to the discussions, further enriching the academic discourse. The programme concluded with a session on *way forward*, where participants

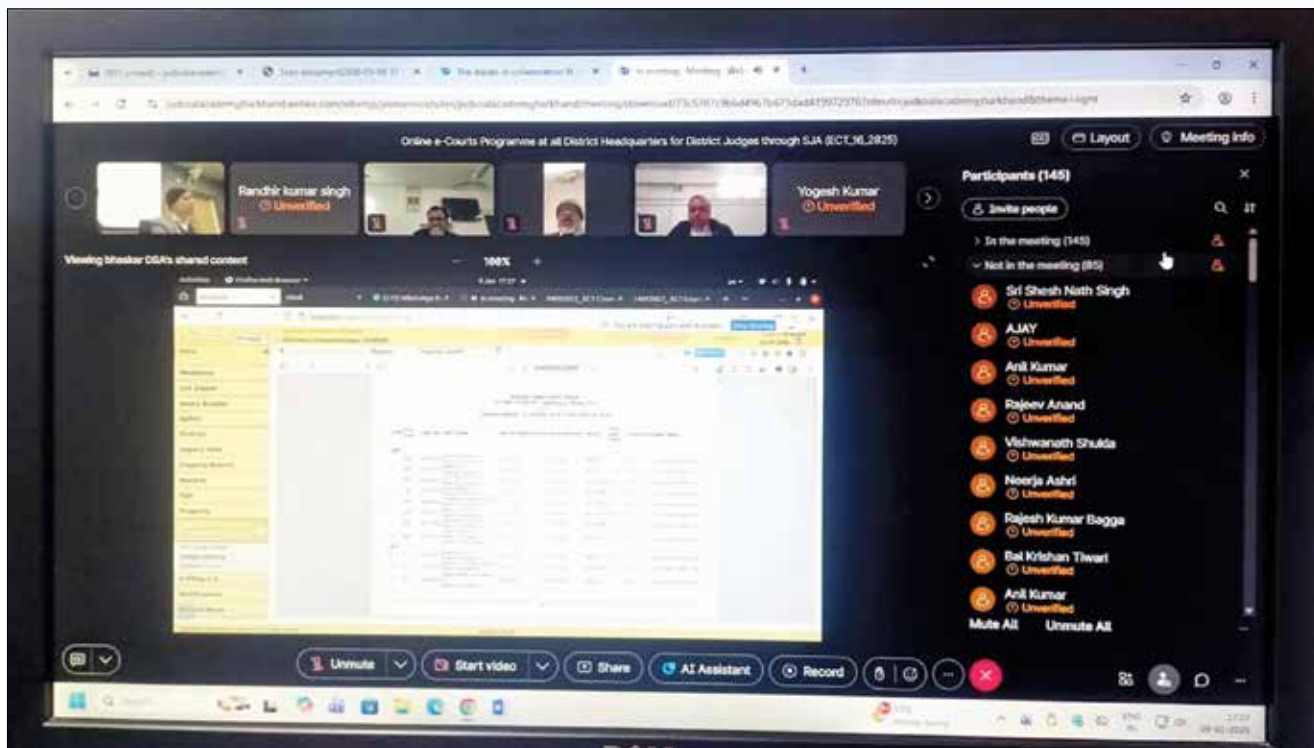
reflected on key learnings and their practical application in court proceedings.

Overall, the training programme was highly interactive and insightful, successfully reinforcing both foundational concepts and practical skills essential for effective civil adjudication.

ONLINE E-COURTS PROGRAMME AT ALL DISTRICT HEADQUARTERS FOR DISTRICT JUDGES THROUGH SJA (ECT 16)

In accordance with the approved Academic Calendar 2025–26, the Judicial Academy, Jharkhand conducted an Online e-Courts Programme for District Judges on 09th January 2026 across all District Headquarters of the

State. The programme was organised under the Supreme Court E-Committee Training framework (ECT 16) and was attended by officers of the District Judges cadre.



The training session was conducted in online mode from 4:30 P.M. to 5:30 P.M., with participants logging in prior to the commencement of the programme to ensure seamless connectivity and coordinated participation. The programme aimed to strengthen digital competence and familiarise judicial officers with the evolving e-Courts ecosystem, in furtherance of technology-driven judicial administration.

To ensure smooth technical functioning and effective participation during the session, specific connectivity protocols were observed. Participants joined the programme using official laptops and earphones provided under the E-Committee initiative, maintained continuous video presence

during the session, kept their microphones muted during the deliberations, and utilised the chat interface for raising queries and seeking clarifications.

The programme emphasised the effective utilisation of digital platforms in court functioning and contributed to enhancing the technological preparedness of District Judges in the discharge of their judicial responsibilities. The successful conduct of the programme reflected the Judicial Academy, Jharkhand's continued commitment to advancing e-Courts initiatives and strengthening digital integration within the justice delivery system.



PROGRAMME FOR COURT MANAGERS & ADMINISTRATIVE HEAD STAFF OF DISTRICT JUDICIARY – (ECT 5)



A one-day training programme titled “Programme for Court Managers & Administrative Head Staff of District Judiciary (ECT_5_2025)” was conducted on 11th January 2026. The programme was designed to enhance the administrative and technical capacities of Court Managers and Administrative Head Staff in effectively managing e-Courts applications, digital processes, and data management systems within district courts.

The programme commenced with an introductory session focusing on the objectives of the training and emphasising the importance of change management, continuous training, and sensitisation of stakeholders in the process of digital transformation of the judiciary. The session also highlighted the role of Court Managers and Chief Ministerial Officers in facilitating technology adoption and strengthening institutional capacity within district courts.

The subsequent technical sessions provided an overview of the e-Court ecosystem, including Case Information System (CIS-I and CIS-II) and process management. Participants were also oriented on e-Filing and the Inter-Operable Criminal Justice System (ICJS), with demonstrations on consuming cases from e-Filing and ICJS portals, handling new cases, filing in existing cases, and IA filing, along with the use of training videos and manuals.



Further sessions covered data management, digitisation of court records, electronic hardware management, and video conferencing systems used in courts. Participants were also introduced to various e-Courts initiatives and digital services, including GIMS (Sandes) application, SMS push and pull services, automated email services, and the National Judicial Data Grid (NJDG) along with its statistical tools relating to pendency data. Discussions also included live streaming, SUVAS translation services, and other newly introduced nationwide services under the e-Courts project. In addition, state-specific services such as ePay, Justice Clock/Display systems, and digital services provided through district court websites were explained to the participants.

The sessions were conducted jointly by *Sri Sajid Akhtar* and *Sri Bhaskar Kumar*, Assistant-cum-DSAs, Civil Court, Ranchi, who provided both conceptual orientation and practical insights into the implementation of e-Courts initiatives at the district level.



The programme concluded with an interactive session involving discussions and clarification of doubts, enabling participants to share practical challenges and gain further insights from the resource persons. Overall, the programme proved to be informative and practical, contributing to strengthening the capacity of court managers and administrative staff in supporting efficient and technology-enabled court administration.



Union of India v. Ram Sewak Mahto, 2026 SCC OnLine Jhar 435

The Jharkhand High Court dismissed the writ petition filed by the Union of India, which had challenged only the direction of the Tribunal relating to regularization of the respondent, Ram Sewak Mahto, while accepting the grant of temporary status. The Court observed that the respondent had been in continuous service for a long period more than 25 years and was admittedly in employment as on 10-9-1993. In view of the Department of Posts' policy decision dated 9-8-1996, such employees were entitled to conferment of temporary status, and accordingly, the Tribunal's direction in that regard had attained finality. The Court further noted that the respondent had worked for 8 hours daily and had even been paid arrears based on a Labour Court award, indicating that he was discharging duties akin to regular employees.

Relying on the principles laid down in *State of Karnataka v. Umadevi (3), (2006) 4 SCC 1* and subsequent decisions, the Court held that although regularization cannot be claimed as a matter of right, exceptions exist in cases of long, continuous service against sanctioned work. It emphasized that the object of *Umadevi* was to prevent illegal backdoor entries, not to deny relief to employees who have served the State for decades in an irregular but not illegal manner. The Court also rejected the argument regarding the earlier rejection order dated 4-8-1993, holding that subsequent policy changes and the admitted factual position rendered that objection unsustainable. Consequently, finding no legal infirmity in the Tribunal's order, the High Court upheld the direction for regularization and dismissed the writ petition.

MASTER TRAINER PROGRAMME FOR NEW NOMINATED MASTER TRAINERS (ECT 3)



The Judicial Academy, Jharkhand organised a Master Trainer Programme for New Nominated Master Trainers on 07th and 08th February, 2026 at Ranchi. The programme was designed to equip newly nominated master trainers with the necessary technical knowledge and practical skills relating to the e-Courts Project, Case Information System (CIS), and digital tools used in court administration. The training aimed at strengthening the capacity of master trainers so that they can effectively disseminate technological knowledge and best practices among judicial officers and court staff.



The programme commenced with an introductory session focusing on the role and responsibilities of master trainers, the objectives of the training programme and the importance of change management in the adoption of technological reforms within the judiciary. The session emphasised that master trainers play a crucial role in ensuring the successful implementation of digital initiatives under the e-Courts Project.



The subsequent sessions introduced participants to the e-Committee of the Supreme Court of India and the e-Courts Project, highlighting its objectives, structure and the technological reforms undertaken to modernise court processes. Participants were also provided with a foundational understanding of computer hardware and software, internet connectivity, LAN systems and video conferencing equipment, which form the backbone of digital court infrastructure.



A detailed session was devoted to the Case Information System (CIS) and its operational framework. The resource persons explained the concept and establishment of CIS, recent developments in CIS 4.0, and the structure of

CORE and peripheral modules. The session also covered essential aspects such as CIS login procedures, master data management and the concept of Case Number Record (CNR).



Demonstration-based sessions familiarised participants with various features of the CIS platform, including the CIS Dashboard, case proceedings management, judge period and leave modules, Lok Adalat and mediation modules, marking of urgent cases, cause list generation and modification of party or advocate details. The sessions also addressed the administrative functions within CIS such as diary and business management modules, enabling participants to understand how the system supports efficient court functioning.

Another important segment of the programme focused on e-filing procedures, including the process of filing cases electronically, payment of court fees through digital modes and the relevant rules governing e-filing. Participants were also introduced to the pre-trial module, under-trial management tools and the use of query builder functions within CIS, which assist in efficient case tracking and information retrieval.



The second day of the programme focused on strengthening participants' knowledge of digital court infrastructure and services. Sessions were conducted on Ubuntu Linux and its components, providing participants with an overview of the operating system commonly used in court systems. Discussions were also held on e-Court services, the National Judicial Data Grid (NJDG), and the District Court mobile application, highlighting their role in enhancing transparency and accessibility of judicial information.

Further sessions examined the functioning of e-Sewa Kendras, kiosk facilities, video-based filing assistance and visitor management systems used in courts. The participants were also introduced to the concept of digital courts and the growing importance of technology-driven judicial processes.



A technical session was conducted on the use of Digital Signature Tokens, including their installation and practical use in signing electronic documents. Participants were trained in signing PDF documents, bulk signing techniques and secure digital authentication methods required for electronic court records.

IN-HOUSE DISCUSSION ON LAW AND LATEST JUDICIAL TRENDS (D-4)

As part of its continued efforts to strengthen judicial education and promote continuous professional development, the Judicial Academy, Jharkhand initiated a quarterly programme titled “In-House Discussion on Law and Latest Judicial Trends.” The initiative is conducted under the guiding philosophy of “Knowledge in Continuity,” with the objective of keeping judicial officers updated on evolving legal developments, statutory changes and recent judicial pronouncements.

In accordance with the directions issued by the Judicial Academy, Jharkhand, the discussions were organised across various judgeships at the district headquarters and sub-divisional levels under the leadership of the Principal District and Sessions Judges and the Senior District and Additional Sessions Judges. The programme encouraged active participation of judicial officers and provided a platform for collective deliberation on important legal developments and contemporary judicial trends.

For the quarterly discussion scheduled during February 2026, the Judicial Academy circulated select judgments of the Supreme Court of India as reference material for deliberation. The

programme also included sessions on word processing software, comparing the use of Microsoft Office and LibreOffice, and highlighting important features, settings and shortcut commands useful in court work. Participants were further trained in web browsing techniques, document generation, optical character recognition (OCR), accessible PDF creation and document bookmarking, which are essential for managing digital records efficiently.

The concluding technical discussions addressed court statistics in CIS, the District Court Performance Monitoring and Management System (DIPMC), and the use of NSTEP for electronic service of summons and notices. Participants were also guided on best practices and do’s and don’ts while using CIS to ensure accuracy, efficiency and data integrity.

The programme concluded with an interactive discussion session where participants clarified their doubts and shared their experiences regarding the implementation of digital tools in courts. The training programme provided valuable technical insights and strengthened the capacity of master trainers to promote effective use of technology in the judicial system.

discussions focused on the judgments in Ram Charan & Others v. Sukhram & Others, 2025 SCC OnLine SC 1465 and Vibhor Garg v. Neha, (2025) 10 SCC 128 / 2025 SCC OnLine SC 1421. Judicial officers examined the legal principles laid down in these decisions and deliberated upon their practical implications in the adjudication of cases before the subordinate judiciary.

The discussions were conducted in an interactive manner, enabling participants to analyse the reasoning adopted by the Supreme Court and exchange perspectives on the application of the principles laid down in the judgments. The initiative also encouraged collaborative learning among judicial officers and facilitated a deeper understanding of contemporary judicial trends.

The quarterly In-House Discussion on Law and Latest Judicial Trends reflects the Judicial Academy’s commitment to strengthening the culture of continuous learning within the judiciary. By encouraging regular academic engagement with recent judgments and emerging legal issues, the initiative seeks to enhance the quality of adjudication and promote informed judicial decision-making across courts in the State.

ECT TRAINING FOR TRAINERS OF MINISTERIAL STAFF AT JUDICIAL ACADEMY, JHARKHAND (T.O.T.- 2)



The Judicial Academy, Jharkhand conducted an ECT Training for Trainers of Ministerial Staff (T.O.T.- 2) on 12th March 2026 at the Judicial Academy, Jharkhand. The programme was designed to equip selected trainers from the ministerial cadre with the necessary knowledge and technical skills to effectively disseminate training on e-Courts initiatives, digital processes, and computer-based documentation within district courts.



All the sessions during the programme were jointly conducted by *Sri Sajid Akhtar and Sri Bhaskar Kumar, Assistant-cum-DSAs, Civil Court, Ranchi*, who provided both conceptual understanding and practical insights into the implementation and functioning of digital systems within the court environment.

The programme commenced with an orientation session focusing on the objectives and scope of the training, including the introduction of trainers and the overall focus of the programme. The session emphasised change management, including the concept and need for change management, process re-engineering, and automation techniques adopted in moving towards a paperless court environment. It also highlighted the importance of continuous training and sensitisation of stakeholders, the

role of master trainers, and the contribution of advocates and advocate clerks in strengthening e-Courts initiatives.



Subsequent sessions provided an overview of the e-Committee and the e-Courts Project, including a brief history of ICT in the judiciary and the National e-Governance Programme (NeGP). The sessions explained the constitution, hierarchy, and objectives of the e-Courts project, along with its implementation through Phases I, II, and III, and emphasised the importance of digitisation of court records and the workflow, management, and usage of digitised data in judicial administration.

Further technical deliberations focused on the basics of computers, internet usage, and electronic documentation. Participants were introduced

to operating systems such as MS Windows and Ubuntu Linux, the components of Windows, file management and file extensions, and the use of word processing software including Microsoft Office, LibreOffice, and OpenOffice. The sessions

also covered internet browsers, email creation and usage, preparation of accessible PDFs, scanning and combining documents, and maintaining optimal document size for digital records.



The programme also addressed citizen-centric services under the e-Courts project, including the e-Courts Services Mobile Application, KIOSK services for obtaining case-related information, utilisation of District Court and High Court websites, and online payment of court fees through the eGRAS portal of the State Government. Participants were also familiarised with video conferencing facilities and the relevant rules governing their use in courts.

The concluding session focused on e-Filing systems, covering the importance and advantages of e-filing, features of the e-filing portal, data consumption of e-filing to CIS, and the functioning of e-Sewa Kendras and helpdesks. Participants

were also oriented on registration procedures on the e-filing portal, steps for filing cases electronically, uploading pleadings in existing cases, and managing advocate and client profiles through the e-filing platform. The programme concluded with an interactive discussion session, enabling participants to clarify practical issues relating to digital court processes and the effective implementation of e-Courts initiatives.

Overall, the programme proved to be informative and practically oriented, strengthening the capacity of ministerial staff trainers to support the effective implementation of e-Courts initiatives and digital transformation within the district judiciary.

TRAINING PROGRAMME FOR ADVOCATES / ADVOCATES' CLERKS E-COURTS PROGRAMME AT TALUK / VILLAGE AT DISTRICT HEADQUARTERS (ECT 7)

Pursuant to the directions of the Hon'ble eCommittee, Supreme Court of India, and under the guidance of the Hon'ble Judge-In-Charge, Judicial Academy, Jharkhand, the Judicial Academy, Jharkhand organised a One-Day Training Programme for Advocates/ Advocates' Clerks under the e-Courts Programme (ECT_7_2025) at the District Judgeship across the State during the prescribed period of 15th to 22nd March, 2026.

The programme was conducted in physical (offline) mode, with each District Judgeship organising the training on a suitable date within the notified period. The sessions were conducted by Advocate Master Trainers, and in their absence

by the District System Administrators (DSAs) or designated trainers of the concerned district.

For each programme, 50 participants comprising Advocates and Advocates' Clerks were nominated by the respective District Judgeship in consultation with the local Bar Associations, ensuring representation from district as well as sub-divisional areas.

The training focused on the practical use of e-Courts services, Case Information Systems, and e-Filing, with the objective of promoting efficient utilisation of digital court processes and strengthening the adoption of e-Courts initiatives among members of the Bar.

LATEST JUDGEMENTS

SATENDER KUMAR ANTIL V. CBI, 2026 SCC ONLINE SC 162

[Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 35(1)(b), Section 35(3), Section 35(5), Section 35(6) — Arrest without warrant — Offences punishable with imprisonment up to seven years — Whether issuance of notice before arrest is mandatory — Scope of police power of arrest — Distinction between existence of power to arrest and necessity of arrest — Personal liberty under Article 21 — Notice under Section 35(3) is the rule, arrest an exception]

FACTS

The present matter came before the Supreme Court in the context of clarifying the legal position relating to arrest in offences punishable with imprisonment up to seven years under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The issue arose during the course of proceedings in the case of *Satender Kumar Antil v. Central Bureau of Investigation*. The Court had earlier delivered important judgments concerning the regulation of arrest and bail, including the well-known decision in *Satender Kumar Antil v. CBI*, (2022) 10 SCC 51.

In the present proceedings, an important procedural question regarding Section 35 of the BNSS, 2023 was brought to the Court's attention. Section 35 deals with the power of the police to arrest a person without a warrant. Sub-section (1) (b) of the provision lays down conditions under which arrest may be made in cases where the offence is punishable with imprisonment up to seven years. Sub-section (3) provides for issuance of a notice directing the accused to appear before the police officer when arrest is not required.

The issue gained prominence due to a judgment of the Bombay High Court in *Chandrashekhhar Bhimsen Naik v. State of Maharashtra*, 2025 SCC OnLine Bom 5357, which held that in cases involving offences punishable with imprisonment up to seven years, the Investigating Officer must issue a notice under Section 35(3) of the BNSS directing the accused to appear before him. At the same time, the judgment recognized that arrest could still be effected if the Investigating Officer recorded reasons justifying the necessity of such arrest.

This observation created an apparent ambiguity regarding the relationship between the mandatory issuance of notice and the discretionary power of arrest. According to the Amicus Curiae assisting the Court, the reasoning in the High Court judgment seemed to suggest two competing

positions: on the one hand, it stated that the issuance of notice was mandatory; on the other hand, it appeared to allow the police to bypass the notice requirement if reasons for arrest were recorded.

Additionally, the Court was informed that a similar question - whether notice under Section 41-A of the Code of Criminal Procedure, 1973 (which corresponds to Section 35(3) of the BNSS) must be issued before arrest in all cases where the offence is punishable up to seven years - was pending before the Bombay High Court in *Vicky Bharat Kalyani v. State of Maharashtra*.

In light of these developments, the Supreme Court undertook the task of clarifying the correct interpretation of Section 35 of the BNSS, 2023 and settling the position regarding the interplay between the power of arrest and the requirement of issuing a notice of appearance.

ISSUES

1. Whether notices under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 must be mandatorily issued in all cases where the offence is punishable with imprisonment up to seven years.
2. Whether an arrest made without issuing such notice is legally justified when the conditions mentioned in Section 35(1)(b)(i) and Section 35(1)(b)(ii) exist.

SUBMISSIONS OF THE AMICUS CURIAE

Senior Advocate Sidharth Luthra, appearing as Amicus Curiae, argued that the statutory framework of Section 35 clearly shows that arrest should not be resorted to mechanically in offences punishable up to seven years. He relied heavily on the landmark decision of the Supreme Court in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, which interpreted Section 41 and Section 41-A of the Code of Criminal Procedure and laid down strict safeguards against unnecessary arrest.

According to the Amicus Curiae, Section 35(3) of the BNSS imposes a mandatory requirement to issue a notice directing the accused to appear before the Investigating Officer in cases where arrest is not required. Once such a notice is issued and the accused complies with it, arrest should ordinarily not be made.

The Amicus Curiae submitted that the power to arrest is distinct from the justification for exercising that power. The phrase “for proper investigation of the offence” appearing in Section 35(1)(b)(ii) cannot be interpreted to grant the police unfettered discretion to arrest an accused person. Instead, it must be understood as requiring the Investigating Officer to demonstrate a genuine necessity for arrest.

It was further argued that the High Court's reasoning created a grey area because it simultaneously emphasized the importance of issuing notice while allowing arrest if reasons were recorded. According to the Amicus Curiae, the requirement to issue notice under Section 35(3) should be treated as absolute and cannot be bypassed simply by recording reasons for arrest. Therefore, he requested the Supreme Court to clarify the legal position to avoid inconsistent interpretations by lower courts.

SUBMISSIONS OF THE ADDITIONAL SOLICITOR GENERAL

The learned Additional Solicitor General Aishwarya Bhati opposed the need for any further clarification. She submitted that the issue had already been conclusively settled by the Supreme Court in *Arnesh Kumar v. State of Bihar and Satender Kumar Antil v. CBI*, (2022) 10 SCC 51.

According to the ASG, these judgments clearly establish that arrest in offences punishable with imprisonment up to seven years is not automatic. The police must first satisfy themselves about the necessity of arrest under the statutory parameters. If arrest is not necessary, a notice directing the accused to appear should be issued.

She argued that the Bombay High Court's decision did not create any contradiction. Rather, it correctly interpreted the statutory scheme by recognizing that the issuance of notice is the general rule, but arrest may still be permissible if the statutory conditions requiring such arrest are satisfied and reasons are recorded.

DISCUSSION AND ANALYSIS

The Supreme Court began its analysis by explaining the nature and purpose of criminal investigation. Referring to the earlier decision in *State of Uttar Pradesh v. Bhagwant Kishore Joshi*, (1964) 3 SCR 71, the Court observed that investigation generally involves several steps, including proceeding to the spot of the offence, collecting evidence, examining witnesses, searching places, and forming an opinion as to whether the accused should be placed before a Magistrate for trial.

The Court emphasized that investigation does not necessarily require arrest. Arrest is only one of the possible steps that may be taken during investigation and is not an indispensable component of the process.

The Court then examined Section 35 of the BNSS, 2023, which governs arrest without warrant. It noted that the provision uses the word “may”, indicating that the power of arrest is discretionary and not mandatory. The Court explained that the power of arrest must always be distinguished from the justification for exercising it.

In this context, the Court relied upon the judgment in *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260, where it was held that no arrest can be made merely because it is lawful to do so. The police officer must be able to justify the arrest based on the circumstances of the case. Arrest and detention can cause serious harm to a person's reputation and dignity, and therefore the power must be exercised with great caution.

The Court then examined the conditions under Section 35(1)(b). It held that for arrest in offences punishable up to seven years, two requirements must be satisfied. First, the police officer must have reason to believe that the accused has committed the offence. Second, the officer must also be satisfied that arrest is necessary for one of the purposes specified in Section 35(1)(b)(ii), such as preventing further offences, ensuring proper investigation, preventing tampering with evidence, preventing intimidation of witnesses, or ensuring the accused's presence in court.

These two conditions must be read together, and the existence of only a suspicion of involvement in the offence is not sufficient to justify arrest. Even when the conditions exist, the police officer must record his reasons in writing before making an arrest.

The Court further explained the role of Section 35(3), which requires the police officer to issue a notice directing the accused to appear before him if arrest is not necessary. The person receiving the notice has a duty to comply with it. If the person complies and continues to comply with the notice, Section 35(5) prohibits the police from arresting him unless specific reasons for arrest are recorded.

The Court also examined Section 35(6), which deals with situations where the accused fails to comply with the notice or refuses to identify himself. Even in such cases, arrest is not automatic. The Investigating Officer must still determine whether arrest is genuinely necessary.

The Court emphasized that the safeguards contained in Section 35 are closely connected with the fundamental right to personal liberty under Article 21 of the Constitution. The procedure prescribed by the statute is intended to protect individuals from arbitrary deprivation of liberty.

JUDGMENT

After analyzing the statutory provisions and the earlier judgments of the Court, the Supreme Court concluded that the legal position is clear. The Court held that a notice under Section 35(3) of the BNSS, 2023 should ordinarily be issued in cases where the offence is punishable with imprisonment up to seven years. The issuance of notice is therefore the normal rule.

Arrest, on the other hand, is an exception and must be justified by strict compliance with the statutory conditions laid down in Section 35(1)(b). Even if those conditions exist, the police officer must still determine whether arrest is absolutely necessary.

The Court further held that if a person complies with the notice issued under Section 35(3), he cannot be arrested unless the Investigating Officer records specific reasons demonstrating the necessity of such arrest. Any subsequent arrest must also be based on new circumstances or material that was not available at the time the notice was issued.

The Court also examined the judgment of the Bombay High Court in *Chandrashekhar Bhimsen Naik* and held that it did not contain any contradiction. On the contrary, the High Court had correctly interpreted the statutory scheme and emphasized the mandatory compliance with the safeguards contained in Section 35.

RATIONALE

The Court examined the statutory scheme of Section 35 BNSS, which governs arrest without warrant. It observed that the provision uses the word “may”, thereby making the power of arrest discretionary rather than mandatory.

For arrest in offences punishable up to seven years, the police officer must satisfy two conditions:

1. Under Section 35(1)(b)(i), the police officer must have reason to believe on the basis of a complaint, information, or suspicion that the person has committed the offence.
2. Under Section 35(1)(b)(ii), the police officer must be satisfied that arrest is necessary for one of the specified purposes, such as preventing further offences, ensuring proper investigation, preventing tampering with evidence, preventing intimidation of witnesses, or ensuring the presence of the accused in court.

The Court emphasized that both conditions must exist together before arrest can be justified.

The Court further observed that Section 35(3) reinforces the principle that arrest should not be made routinely. Where arrest is not necessary, the Investigating Officer must issue a notice directing the accused to appear before him.

Once such notice is issued, the accused has a duty to comply with it. As long as the accused continues to comply with the notice, Section 35(5) imposes an implied prohibition against arrest unless the Investigating Officer records specific reasons showing why arrest has become necessary.

The Court also considered Section 35(6), which deals with situations where the accused fails to comply with the notice. Even in such cases, arrest is not automatic. The Investigating Officer must exercise discretion and determine whether arrest is genuinely necessary for the purposes of investigation.

The Court emphasized that these safeguards are closely connected with the fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India. Arbitrary arrest can cause serious harm to a person’s reputation and dignity, and therefore the law requires the police to exercise restraint.

The Court reiterated the principle laid down in *Joginder Kumar v. State of U.P.*, (1994) 4 SCC 260,

that the mere existence of the power to arrest does not justify its exercise. The police officer must be able to demonstrate the necessity of arrest based on the circumstances of the case.

Thus, the Court held that the statutory framework of Section 35 BNSS must be interpreted in a manner that protects individual liberty while allowing effective investigation.

KEY PRINCIPLES LAID DOWN

The Supreme Court summarized the legal position as follows:

1. The power of arrest under Section 35 BNSS is discretionary and not mandatory.
2. A police officer must determine whether arrest is necessary before exercising the power of arrest.
3. For offences punishable with imprisonment up to seven years, the conditions under Section 35(1)(b)(i) and Section 35(1)(b)(ii) must exist before arrest can be made.
4. Issuance of notice under Section 35(3) BNSS is the rule in such cases.
5. Even where the circumstances permitting arrest exist, arrest should not be made unless absolutely necessary.
6. If the accused complies with the notice issued under Section 35(3), arrest can be made only if the Investigating Officer records reasons justifying the necessity of such arrest.
7. Arrest after issuance of notice must be exercised sparingly and only in exceptional circumstances.

MOHTASHEM BILLAH MALIK v. SANA AFTAB, 2026 SCC OnLine SC 146

[Guardians and Wards Act, 1890 — Section 25 — Custody of minor children — Welfare of child as paramount consideration — Relevance of additional factors such as financial capacity of parents, standard of living, comfort and education of children — Whether High Court erred in ignoring material circumstances while determining custody — Impugned order set aside and matter remanded for reconsideration]

FACTS

The present appeal arose out of a custody dispute between the appellant-husband and the respondent-wife concerning their two minor sons. The parties, both Indian citizens, were married in 2015 in accordance with Muslim personal law and thereafter resided in Qatar, where the appellant was employed as an electrical engineer. Two sons were born from the wedlock while the parties were living in Qatar.

Subsequently, matrimonial discord arose between the parties, leading to the institution of divorce proceedings before the Family Court in Qatar. By a judgment dated 29-3-2022, the Qatar Court granted divorce on the ground of mutual abuse. Under the decree, custody of the minors was granted to the wife while guardianship was vested in the husband. As guardian of the children, the husband retained custody of their passports and other travel-related documents.

In August 2022, the respondent-wife travelled to India with the children and began residing in Srinagar. The appellant alleged that the children had been removed from Qatar during

the academic session without his knowledge or consent. Consequently, he filed a habeas corpus petition before the High Court of Jammu & Kashmir and Ladakh, alleging illegal custody of the minors by the wife.

During the proceedings, the wife gave an undertaking before the High Court that she would return to Qatar with the children before the reopening of their school session. However, she failed to honour the undertaking. Thereafter, the appellant initiated contempt proceedings against her for violating the undertaking. Meanwhile, the Qatar Court revoked the custody earlier granted to the wife and ordered custody of the children to be restored to the appellant-husband.

Subsequently, the appellant instituted proceedings before the Family Court, Srinagar under Section 25 of the Guardians and Wards Act, 1890, seeking custody of the minors. The Family Court allowed the petition and granted custody to the father. However, on appeal, the High Court reversed the Family Court's decision and restored custody to the mother. Aggrieved by the High Court's order, the appellant approached the Supreme Court.

ISSUES

1. Whether the High Court erred in determining the custody of the minors solely on the basis of the principle that the welfare of the child is paramount, without considering other relevant factors such as the conduct of the parties, their financial capacity, and the educational and social well-being of the children.
2. Whether the High Court failed to consider material circumstances, including the revocation of custody by the Qatar Court, the contempt finding against the respondent-wife, and the expressed inclination of the children regarding custody.

JUDGMENT

The Supreme Court allowed the appeal and set aside the judgment of the High Court, remanding the matter for fresh consideration. The Court held that although the welfare of the children remains the paramount consideration in custody disputes, such welfare must be assessed by taking into account a range of relevant circumstances.

The Court observed that the High Court had erred in disregarding several material factors, including the revocation of custody by the Qatar Court, the respondent-wife's violation of her undertaking before the High Court, and the evidence regarding the children's educational circumstances and preferences. These aspects were significant in determining the best interests of the children and ought to have been duly considered.

RATIONALE

The Supreme Court reiterated that in matters concerning custody of minors, the welfare and best interests of the child constitute the paramount

consideration. However, the determination of welfare cannot be confined to a narrow or abstract assessment. Courts must evaluate the overall circumstances affecting the child's upbringing and well-being.

In this regard, the Court emphasized that factors such as the conduct of the parents, their financial capacity, the standard of living they can provide, the comfort and educational prospects of the children, and the surrounding social environment are all relevant considerations that assist in determining the child's welfare.

The Court noted that the High Court had overlooked significant material aspects, including the revocation of the custody order by the Qatar Court, which had transferred custody to the father, and the contempt proceedings in which the respondent-wife was found guilty of violating her undertaking before the High Court. These developments were legally relevant and could not be ignored while adjudicating the custody dispute.

Additionally, the Court observed that the children's interactions recorded in the mediation process indicated their inclination to accompany their father, and that their educational and social circumstances also required careful evaluation. Although such factors may not independently determine custody, their cumulative effect must be assessed in order to arrive at a just and balanced decision.

Since these material aspects were not adequately considered by the High Court, the Supreme Court held that the impugned judgment could not be sustained. Accordingly, the matter was remanded to the High Court for reconsideration on merits, with a direction to decide the issue of custody expeditiously in accordance with law.



Judicial Relief: Necessary for Better Governance and Ensuring Justice

- Sri Rajesh Sharan Singh

Director, Judicial Academy, Jharkhand

JUDICIAL RELIEF AS A CONSTITUTIONAL NECESSITY FOR GOVERNANCE AND JUSTICE

In a constitutional democracy such as India, governance is not merely administration or executive efficiency; it is the lawful exercise of public power subject to fairness, accountability, transparency, and respect for human dignity. Judicial relief is the principal means through which this constitutional discipline is enforced. A government may function efficiently yet still fail the standards of good governance if it acts arbitrarily, suppresses dissent, excludes vulnerable groups, or disregards constitutional values. Within the constitutional framework, judicial relief enables courts to protect rights, check abuse of power, and ensure that governance remains within constitutional limits. Judicial relief also gives practical meaning to rights such as equality, liberty, dignity, and due process by making them enforceable. It remains essential both for providing remedies in individual cases and for correcting broader structural and institutional failures in governance.

Conceptual Foundations: Rule of Law, Separation of Powers, and Governance

Judicial relief rests on two basic principles of constitutional governance: the rule of law and the separation of powers. The rule of law requires that all state action conform to law, reason, and fairness, and excludes arbitrariness in the exercise of public power. Judicial relief is the means by which this constitutional discipline is maintained.

Although the Constitution of India does not establish a rigid separation of powers, it clearly distributes functions among the legislature, executive, and judiciary. The legislature makes laws, the executive implements them, and the judiciary ensures constitutional compliance. Judicial relief becomes necessary when executive action violates rights, legislative policy undermines constitutional guarantees, or governance departs from constitutional limits. It is, therefore, not an instance of judicial overreach, but an essential feature of constitutional checks and balances.

THE CONSTITUTION AS THE MORAL AND LEGAL FOUNDATION OF JUDICIAL INTERVENTION

The constitutional basis of judicial relief in India is clear and foundational. The Constitution not only declares rights but makes them enforceable, while also subjecting governance to legal restraint. Judicial relief is central to this framework because it transforms constitutional promises into practical realities. At its core, the Constitution is a charter of justice founded on the principle that power must serve the people and remain accountable to constitutional values. Judicial relief gives effect to this principle by ensuring that rights are not merely symbolic but capable of enforcement.

1. The Preamble: Justice as the Guiding Constitutional Ideal

The constitutional foundation of judicial relief begins with the Preamble. By resolving to secure justice- social, economic, and political, the Constitution places justice at the centre of governance. This commitment is not rhetorical but normative, guiding all organs of the State. Judicial relief is the primary means through which this promise is fulfilled. When courts correct injustice, they act not outside the Constitution but in furtherance of its most fundamental objective. The Preamble thus serves as the moral compass of judicial action, directing constitutional interpretation toward justice, dignity, and equality.

2. Fundamental Rights: Substantive Foundations of Judicial Relief

Part III of the Constitution forms the substantive heart of judicial relief. Fundamental Rights are not privileges conferred by the State; they are enforceable guarantees that limit governmental power. Judicial relief gives these rights meaning and vitality.

Article 14 — Equality and Non-Arbitrariness

Article 14 is the cornerstone of constitutional governance. Judicial interpretation has established that arbitrariness is antithetical to equality. Any unreasonable, irrational, or discriminatory state action violates Article 14 and

warrants judicial correction. Through judicial relief, equality has evolved from a formal concept into a substantive governance norm. Administrative discretion is subject to reasonableness, fairness, and proportionality, ensuring that public power is exercised transparently and justly.

Article 19 — Democratic Freedoms and Judicial Oversight

Article 19 guarantees freedoms essential to democratic participation, including speech, expression, association, movement, and profession. While reasonable restrictions are permitted, it is the judiciary that determines their constitutional validity. Judicial relief under Article 19 prevents misuse of regulatory power to suppress dissent or stifle democratic engagement. By ensuring proportionality and justification, courts preserve the democratic character of governance.

Article 21 — Dignity as the Core of Constitutional Governance

Article 21 has evolved from a narrow guarantee of personal liberty into a comprehensive protection of human dignity. It now encompasses rights to health, education, livelihood, privacy, clean environment, shelter, speedy trial, and humane treatment. This expansion reflects judicial recognition that governance lacking respect for dignity cannot claim constitutional legitimacy. Judicial relief under Article 21 has enabled courts to address systemic governance failures and has positioned the judiciary as a protector not only of liberty, but of the conditions necessary for dignified existence. Article 21 thus functions as the constitutional bridge between governance and social justice.

3. Constitutional Remedies: Judicial Relief as a Fundamental Right

The procedural foundation of judicial relief lies in Articles 32 and 226, which together form the enforcement machinery of constitutional rights.

Article 32 — The Soul of the Constitution

Article 32 guarantees the right to approach the Supreme Court for enforcement of fundamental rights. Dr. B.R. Ambedkar described it as the “heart and soul of the Constitution,” underscoring that judicial relief itself is a fundamental right. By empowering the Court to issue writs such as habeas corpus, mandamus, certiorari, prohibition,

and quo warranto, Article 32 ensures that no violation of fundamental rights remains without remedy. Judicial relief thus becomes intrinsic to constitutional governance, not a matter of executive or legislative discretion.

Article 226 — Decentralised Access to Justice

Article 226 confers broad writ jurisdiction on the High Courts, extending beyond fundamental rights to other legal rights. This decentralisation enhances accessibility, responsiveness, and effectiveness of governance oversight. High Courts function as frontline guardians of constitutional discipline, ensuring that governance at both state and local levels remains within constitutional bounds.

4. Directive Principles and Access to Justice

Although Directive Principles are not enforceable, they play a vital role in shaping judicial relief. Article 39A mandates equal justice and free legal aid, reflecting the Constitution’s concern with substantive access to justice. By harmoniously interpreting Article 39A with Articles 14 and 21, courts have expanded judicial relief to address barriers faced by the poor and marginalised. Legal aid, liberal standing, and procedural flexibility are expressions of this constitutional commitment to inclusive justice.

5. Judicial Review and the Basic Structure

Judicial review, the power to examine the constitutionality of legislative and executive action is an essential component of judicial relief and a part of the basic structure of the Constitution. It cannot be abrogated or diluted, even by constitutional amendment. Judicial relief is therefore not merely procedural; it is a structural necessity of constitutional governance. It ensures constitutional supremacy and accountability of all public power.

6. Judicial Independence as a Precondition

Effective judicial relief is impossible without judicial independence. The Constitution safeguards independence through provisions relating to appointment, tenure, removal, and service conditions. Judicial independence is not a privilege of judges but a right of the people. It enables citizens to seek relief without fear of bias or pressure and ensures that constitutional accountability remains credible and effective.

THE JUDICIARY AS THE CONSTITUTIONAL CUSTODIAN OF ACCOUNTABLE GOVERNANCE

Good governance is not a managerial slogan or an abstract ideal; it is a constitutional requirement flowing from democracy, rule of law, and accountability. In a constitutional State, governance is legitimate only when exercised within legal limits, respectful of fundamental rights, and answerable to the people. The judiciary ensures that these conditions are fulfilled. Through judicial relief, courts translate the idea of good governance from principle into enforceable constitutional practice.

The relationship between the judiciary and governance is neither incidental nor adversarial. It is structural and symbiotic. Governance requires judicial oversight to remain lawful and rights-oriented, while the judiciary derives its constitutional relevance from its capacity to respond effectively to governance failures. Judicial relief thus functions as the connective tissue between constitutional authority and democratic accountability.

1. Rule of Law as the Cornerstone of Good Governance

At the heart of good governance lies the rule of law. It mandates that all public power legislative, executive, and administrative remain subject to legal limits, constitutional norms, and judicial scrutiny. It rejects arbitrariness, unfettered discretion, and personalised authority. The judiciary is the principal guardian of the rule of law, and judicial relief is the means through which it is enforced.

Through judicial review, courts ensure that governance decisions are guided by law, reason, and fairness rather than political expediency or administrative convenience. When executive action violates constitutional or statutory limits, judicial relief restores legality and reaffirms constitutional supremacy. Courts do not govern; they ensure that governance is constitutionally disciplined.

2. Judicial Review as a Governance Control Mechanism

Judicial review is among the most potent instruments for strengthening good governance. It empowers courts to examine the validity of laws, policies, and administrative actions, thereby acting as a constitutional check against majoritarian impulses and executive excesses.

Without judicial review, governance risks becoming authoritarian even within a democratic framework. By striking down unconstitutional laws, quashing arbitrary administrative actions, and enforcing procedural fairness, judicial relief ensures transparency, accountability, and respect for rights.

Importantly, judicial review is exercised with restraint. Courts intervene not because of disagreement with policy choices, but when actions suffer from arbitrariness, disproportionality, rights violations, or disregard of constitutional values. This calibrated approach preserves the balance between judicial oversight and democratic governance.

3. Regulating Administrative Discretion and Preventing Arbitrariness

Modern governance necessarily involves administrative discretion. However, discretion without accountability easily degenerates into arbitrariness. One of the judiciary's most significant contributions to good governance lies in regulating administrative discretion through judicial relief.

Doctrines such as reasonableness, proportionality, non-arbitrariness, and legitimate expectation ensure that administrative decisions remain fair, rational, and transparent. Judicial insistence on reasoned orders, procedural compliance, and fairness fosters a culture of legality within the administration, improves governance standards, and strengthens public confidence in state institutions.

4. Accountability of Public Authorities and Institutional Integrity

Accountability is inseparable from good governance. Judicial relief provides citizens an effective forum to hold public authorities accountable when administrative remedies fail due to inertia, opacity, or political influence.

Through writs of mandamus, courts compel performance of legal duties; through certiorari and prohibition, they correct jurisdictional excesses; and through compensation jurisprudence, they recognise state liability for rights violations. Judicial scrutiny of recruitment, disciplinary action, procurement, and regulatory failure promotes transparency and ethical governance, restoring public trust where governance falters.

5. Protection of Fundamental Rights as a Governance Function

A key indicator of good governance is the protection of fundamental rights, particularly of vulnerable and marginalised groups. Judicial relief has ensured that governance remains inclusive, humane, and dignity-oriented.

Through expansive interpretation of fundamental rights, especially Article 21, courts have addressed systemic governance failures affecting prisoners, women, children, workers, environmental victims, and disadvantaged communities. Such relief transcends individual redress and compels structural reform, reinforcing the vision of a welfare State committed to substantive equality.

6. Public Interest Litigation and Participatory Governance

Public Interest Litigation has transformed the relationship between the judiciary and governance by expanding access to justice and relaxing procedural barriers. Through PIL, courts have addressed governance failures in areas such as environment, public health, prisons, policing, urban planning, and welfare delivery.

PIL has also strengthened participatory governance by giving civil society and public-spirited individuals a voice in constitutional adjudication. While judicial caution against misuse remains necessary, PIL's contribution to governance accountability is undeniable.

7. Electoral Governance and Democratic Accountability

Judicial relief plays a critical role in safeguarding democratic governance by ensuring the integrity of the electoral process. By enforcing disclosure norms, addressing electoral malpractices, and upholding free and fair elections, courts strengthen transparency and democratic legitimacy. Judicial intervention in electoral governance reinforces the principle that accountable leadership is foundational to constitutional governance.

8. Judicial Restraint and Institutional Balance

The judiciary's governance role inevitably raises concerns of overreach. A mature constitutional jurisprudence recognises that judicial relief must be exercised with restraint and institutional sensitivity. Courts have consistently acknowledged that policymaking and implementation lie primarily with the executive and legislature.

Judicial intervention is warranted when rights are violated, constitutional principles ignored, or governance failures are systemic and persistent. This balance between vigilance and restraint is itself a hallmark of good governance, preserving democratic stability and institutional harmony.

JUDICIAL RELIEF AS AN INSTRUMENT OF CONSTITUTIONAL AND INSTITUTIONAL GOVERNANCE

The evolution of judicial relief in India is best understood through landmark judicial decisions that have shaped not only individual rights but the architecture of governance itself. These judgments demonstrate that judicial relief is not confined to correcting isolated legal wrongs; it functions as a powerful instrument of constitutional governance, capable of disciplining executive action, reforming institutions, and realigning public power with constitutional values.

Indian constitutional jurisprudence reflects a clear shift from case-centric adjudication to governance-sensitive adjudication. Courts have recognised that injustice in a complex society often arises from systemic governance failures rather than isolated acts. Judicial relief has therefore been employed to address structural deficiencies, enforce accountability, and restore constitutional balance. For clarity, landmark cases may be examined under the following thematic heads.

1. Personal Liberty and Criminal Justice Governance

In ***Hussainara Khatoon v. State of Bihar (1979)***, the Supreme Court exposed systemic failures in criminal justice administration, where undertrial prisoners were detained for years without trial. By recognising the right to speedy trial as an integral part of Article 21, the Court transformed criminal justice governance from a control-oriented system into a rights-based framework. Judicial relief here compelled institutional reform and reaffirmed that liberty cannot be sacrificed to administrative inefficiency.

Similarly, ***Joginder Kumar v. State of Uttar Pradesh (1994)*** addressed misuse of arrest powers. By holding that arrest must be justified by necessity, the Court introduced constitutional discipline into policing practices. Judicial relief functioned as a restraint on coercive state power and promoted accountable law enforcement.

2. Custodial Governance and Human Dignity

Judicial relief has been particularly significant where governance assumes its most coercive form i.e., custody. In ***D.K. Basu v. State of West Bengal (1997)***, the Court confronted custodial torture and deaths by laying down mandatory guidelines governing arrest and detention. These norms reshaped policing standards nationwide, embedding human rights into everyday governance.

This approach was reinforced in ***Nilabati Behera v. State of Orissa (1993)***, where the Court awarded compensation for custodial death under Article 32. By recognising constitutional tort liability, the Court established that the State is financially accountable for rights violations, marking a shift toward responsibility-based governance.

3. Gender Justice and Governance Vacuum

Judicial relief has also operated where legislative or executive action was absent. In ***Vishaka v. State of Rajasthan (1997)***, the Court framed binding guidelines on sexual harassment at the workplace in the absence of legislation. Grounded in constitutional guarantees of equality and dignity, these guidelines operated as law until Parliament acted.

This intervention did not amount to judicial governance, but governance through constitutional necessity, ensuring protection of rights in the face of institutional silence.

4. Environmental Governance and Sustainable Development

Environmental cases such as ***M.C. Mehta v. Union of India*** and ***T.N. Godavarman Thirumulpad v. Union of India*** demonstrate the judiciary's role in integrating environmental protection into constitutional governance. Recognising environmental harm as a threat to life under Article 21, the Court employed continuing mandamus to monitor executive compliance, regulate industry, and protect forests.

Judicial relief in this domain constitutionalised sustainable development, ensuring that governance balances growth with ecological responsibility and inter-generational equity.

5. Electoral Governance and Democratic Accountability

The legitimacy of governance depends on electoral integrity. In ***Union of India v. Association for***

Democratic Reforms (2002), the Court mandated disclosure of candidates' criminal antecedents, assets, and liabilities. Recognising informed voting as integral to democracy, judicial relief strengthened transparency and accountability.

Rather than interfering with elections, the Court enhanced democratic governance by empowering citizens with information.

6. Federal Governance and Constitutional Balance

In ***S.R. Bommai v. Union of India (1994)***, the Supreme Court curtailed arbitrary use of Article 356 by subjecting the President's satisfaction to judicial review. This judgment protected the autonomy of elected state governments and reinforced democratic federalism, ensuring that constitutional powers are not misused for political convenience.

7. Police Reforms and Institutional Accountability

In ***Prakash Singh v. Union of India (2006)***, the Court addressed chronic governance failures in policing, including political interference and lack of accountability. By prescribing fixed tenure, independent oversight bodies, and separation of functions, the Court laid constitutional benchmarks for police reform. Although implementation has been uneven, judicial relief here functioned as a blueprint for institutional reform in governance.

8. Judicial Relief and the Debate on Overreach

These landmark decisions also raise concerns about judicial overreach. However, judicial intervention has largely been triggered by governance vacuum, rights violations, or institutional collapse. Courts have consistently emphasised that their role is corrective, supervisory, and principled not administrative or policy-driven. Judicial relief in such cases operates as a constitutional necessity rather than an alternative governance mechanism.

PUBLIC INTEREST LITIGATION (PIL) AS A GOVERNANCE TOOL

Public Interest Litigation (PIL) is one of the most significant innovations in Indian constitutional jurisprudence and a defining feature of the judiciary's governance role. Unlike traditional adversarial litigation focused on individual

grievances, PIL is collective, remedial, and transformative. It emerged as a judicial response to India's social realities like poverty, illiteracy, inequality, and institutional exclusion which rendered formal legal remedies inaccessible to large sections of the population. By reimagining access to justice, PIL transformed judicial relief into a mechanism for governance correction and social transformation.

The evolution of PIL reflects judicial recognition that governance failures often arise not from isolated illegal acts, but from systemic neglect, administrative inertia, and structural injustice. By shifting the focus from private disputes to public wrongs, PIL aligns judicial relief with the constitutional goals of social justice, accountability, and democratic governance.

1. Constitutional Foundations of PIL

PIL is grounded in the constitutional vision of justice articulated in the Preamble and reinforced by Parts III and IV of the Constitution. Articles 14 and 21, read with Article 39A, provide the normative foundation for expanding access to judicial relief beyond traditional procedural constraints.

A defining feature of PIL was the conscious relaxation of locus standi. Courts recognised that strict standing requirements would perpetuate injustice in a society where those most affected by governance failures are least able to approach courts. By permitting public-spirited individuals and organisations to represent disadvantaged groups, the judiciary democratised access to justice and reoriented judicial relief toward substantive outcomes.

2. Transformation of the Judicial Role

The emergence of PIL in the late 1970s marked a decisive shift from passive adjudication to active constitutional engagement. Courts treated letters, postcards, and newspaper reports as writ petitions, reflecting sensitivity to social injustice and administrative apathy.

This procedural flexibility transformed judicial relief into a governance mechanism. Courts scrutinised conditions in prisons, factories, construction sites, mental health institutions, and child-care homes, areas previously beyond effective judicial oversight. PIL thus expanded governance accountability and ensured that constitutional rights reached marginalised populations.

3. PIL and Social Justice Governance

One of PIL's most enduring contributions lies in advancing social justice. Through PIL, courts have intervened to eradicate bonded and child labour, protect migrant workers, improve prison conditions, and ensure access to food, shelter, healthcare, and basic dignity.

Judicial relief in such cases has gone beyond declaratory judgments, involving structural directions, continuous monitoring, and coordination with executive agencies. These interventions reinforce the constitutional mandate of a welfare State and affirm that governance must be responsive to human suffering.

4. PIL and Environmental Governance

Environmental protection is a prominent domain of PIL-driven governance reform. Recognising that environmental degradation disproportionately affects the poor and threatens inter-generational equity, courts have used PIL to enforce environmental laws and regulate industrial activity.

Through doctrines such as the public trust doctrine, precautionary principle, and polluter pays principle, judicial relief has constitutionalised environmental governance. Courts have ensured that development policies respect the right to life and health, integrating sustainability into governance frameworks.

5. PIL and Administrative Accountability

PIL has significantly strengthened administrative accountability by subjecting executive action and inaction to judicial scrutiny. Courts have addressed corruption, maladministration, arbitrary allocation of resources, and failures in welfare implementation.

Through writs of mandamus and continuing mandamus, courts have compelled authorities to discharge their statutory and constitutional duties. This supervisory role enhances transparency, curbs arbitrariness, and reinforces the principle that public power is exercised in trust for the people.

6. Continuing Mandamus and Structural Reform

A distinctive feature of PIL is the use of continuing mandamus, whereby courts retain jurisdiction to ensure effective implementation of their directions. This acknowledges that governance

reform is often a long-term process requiring sustained oversight.

While continuing mandamus has improved outcomes in areas such as environmental protection, police reform, prisons, and welfare delivery, it also necessitates judicial restraint to respect institutional capacity and separation of powers.

7. Limits, Misuse, and Judicial Discipline

Despite its transformative potential, PIL has faced criticism for misuse, including frivolous, publicity-driven, or politically motivated petitions. Such misuse risks diluting judicial credibility.

Courts have responded by evolving safeguards stricter scrutiny of bona fides, imposition of costs, and insistence on genuine public interest. This self-regulatory approach reflects judicial maturity and preserves PIL's legitimacy as a governance tool.

8. PIL, Separation of Powers, and Democratic Balance

PIL inevitably raises concerns regarding separation of powers, as judicial directions may influence policy and administration. A principled PIL jurisprudence recognises that courts may intervene to correct constitutional violations, but must avoid assuming the role of administrators.

Judicial relief through PIL must therefore be guided by constitutional necessity, proportionality, and institutional competence. When exercised

with restraint, PIL strengthens democratic governance by enforcing accountability without undermining institutional autonomy.

JUDICIAL RELIEF AS THE CONSCIENCE OF CONSTITUTIONAL DEMOCRACY

Judicial relief occupies a central place in India's constitutional framework. It is not merely a procedural mechanism for resolving disputes, but a means through which the Constitution restrains power, protects dignity, and secures justice. In a constitutional democracy, justice cannot depend only on executive goodwill or administrative efficiency; it requires effective judicial remedies.

Through judicial review, expansive interpretation of rights, and constitutional remedies, the judiciary has ensured that public power remains subject to law, reason, and accountability. The development of Article 21 in particular shows how judicial relief has shaped governance by recognising dignity, health, education, livelihood, privacy, environment, and access to justice as integral to constitutional governance.

Judicial relief has also strengthened accountability by addressing custodial abuse, environmental harm, electoral transparency, police reform, and failures in welfare implementation. Although challenges such as delay, access barriers, enforcement gaps, and concerns of overreach remain, these call for reform rather than any dilution of judicial relief. It continues to be an essential feature of constitutional governance, preserving democracy, restraining power, and ensuring justice.

