

## **VIDEO CONFERENCING: CAN IT BE USED FOR HEARING IN DISTRICT COURT?**

COVID has given a lot of challenges to the world and one of them is seeking justice at this time of crisis. Indian courts are known for their judgments and the way it fairly approaches justice. The supreme court of India on 6TH April 2020, issued Guidelines for Court Functioning Through Video Conferencing During COVID-19 Pandemic for maintaining the norms of social distancing and reducing the number of people in the court to avoid the further spread of the pandemic. The District Courts were directed to conduct virtual proceedings while following the guidelines issued by the concerned High Court for the mode through which it shall be conducted. The guidelines were issued by invoking an extraordinary jurisdiction as under Article 142 as of the Indian Constitution, according to that, the supreme court has the authority to pass any such decree or make any orders which are necessary for providing complete justice throughout the country in such a manner as may be prescribed by law.

The question now is not that whether we can use video conferencing in district courts, we are already conducting virtual proceeding, the issue now arises that are these virtual courts efficient enough to conduct the hearing of the lower courts.

In India, District courts are the one which affects the lives of most of the citizens as prima facie cases are filed in these courts and most of the trials take place in the lower courts. Hence the effective way to conduct hearing via video conferencing should be the priority as in district courts the people involved in a particular case are more in number therefore courts shall come up with a system that provides faster, secured, and reliable modes to conduct the virtual proceedings.

Before the outbreak of the pandemic, the court proceedings consisted of the physical presence of the judges, lawyers, parties involved in the cases, and the court staff in one place. Even the public could access these proceedings by being physically present there in the open courtrooms. Which is an essential element of Democracy, due to the limitations of the virtual hearings, rights of the public under Article 21 i.e., access to justice is on hold. There is a large backlog of cases in all courts. If the courts do not function in the pandemic, the case burden will only increase. It should also be ensured that some of the new facilities which are being used now will continue to be used even after the coronavirus goes away to ensure the speedy disposal of backlog cases. E-courts are not a new concept to our judicial system, after the introduction of the Information Technology Act, 2000, E-courts were introduced to reduce cost and time of the petitioners as well as respondents,

although it wasn't mandatory as it is now during the covid19 pandemic. an open courtroom being an essential part of the democracy in India, strives to protect the Right to access to justice and information as protected under Article 19 and 21 of the Indian Constitution. However, with the increase in the spread of the corona positive cases and the urgent need to maintain social distancing while ensuring that justice is not compromised in any manner, the courts were ordered to switch to virtual mode. The real problem is faced by the lawyers handling criminal matters as the process is very tedious for them. recently, a lawyer approached the district court for urgent hearing of a bail plea in a murder case as the accused had delivered a baby. He told the court that the mother had to undergo surgery and she and her baby had the risk of contracting coronavirus in the congested prisons and the hospital. He also said that he had to wait for an hour for all the judges and parties to get connect through the video call and it took around five days for him to be able to get her out on interim bail for 45 days. Many lawyers are not technologically active and hence face a lot of issues in uploading a pdf or connecting to the video conference application which takes up a lot of time. This incident proves that though virtual courts are very efficient in civil matters but it becomes a difficult task for advocates when it comes to criminal proceedings.

one of the Prime advantages of using virtual Court proceedings is speedy communication, as we all know communication devices like emails and video conferencing provide much faster, safer, and easier data transfer in comparison with any other medium. virtual Court though provides I huge data storage with optimum security and accuracy without occupying much space enhances the efficiency of the judicial system. Data stored or provided in an online platform can be secured and encrypted for better security purposes. These extreme fast exchanges of information will allow courts to deal with backlog cases that are already pending for decades and waiting to be disposed of. Apart from these, the virtual courtrooms provide maximum protection not only to the witnesses but also to the accused or any other person involved in the case and allow them to participate in All legal proceedings without having a threat to life or any danger that is associated with the case which is very common in criminal matters in India. It is needless to say that virtual Courts allow everyone to save time energy and money not only by reducing the travel expenses but also reducing the hassle that comes along while conducting a physical hearing.

In India Technology has not yet reached to every citizen so when we try to conduct virtual proceedings some people especially those who are residing in a rural area may not have sufficient facilities to avail the justice, even if they do have the equipment they may not necessarily have the

awareness to use it. major section of the rural area is either poor, illiterate or both. therefore, they might face difficulty getting justice in the pandemic. apart from this there is always a risk of losing personal and sensitive information. With the coming of the technological era it has also opened new threats and challenges in our world therefore there is a constant threat of getting hacked and losing the public sensitive information to the hackers, these online platforms also invite submissions of fake and unauthentic pieces of evidence before the Honourable Court therefore now courts need to be more cautious and be prepared for this type of challenges.

Though it is appreciated the efforts taken by the judiciary to conduct the virtual proceeding in the wake of the pandemic so that the urgent matters can be attended, it is important to note that the courts must have sufficient and reliable resources to meet the maximum potential. The following suggestions are made to meet the minimum requirement: -

The government should create an advanced and multipurpose software which is approved by the Supreme court and High courts. The software should be accessible to the judges, court staff, lawyers, and other members of the court. The software should be made in such a way that the confidential documents for sensitive information should be made available only to the staff of the court to avoid any security breach. Limited access must be given to the involved parties to the case so that they can file an application, submit evidence, and attend the court proceedings. Utmost importance must be given to the security of the software so that no one can hack into it.

A proper structure and database must be created to collect fees and submission of evidence or any other obligation so that it ensures there is no scope of corruption or any sort of extortion of money. In this database, cases shall be electronically assigned to the judges. also, there must be fixed date and timing for the proceedings and those links must only work for the said time to avoid any complications.

Lastly, the right of access to justice must also be provided to the public by live-streaming the proceedings in some cases. Although the parties which are involved in cases of domestic violence, matrimonial dispute, or rape cases should be given a choice of restricting access to the case if they do not want the matter to be out in public. Matters of national security, defence, and other important issues should be excluded.

However, while the virtual court systems are a great beginning, there is also a requirement to take a step towards establishing a comprehensive dispute resolution, while blending the electronic courts with the physical courts.

The efficiency of video conferencing on district court is a huge step taken by the judiciary and it will take some time for courts and the general public to get use to the concept of virtual proceedings. The governments need to be on toes to look after the security and confidentiality of the cases.