



HIMACHAL PRADESH JUDICIAL ACADEMY

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[Est. vide Notification No. Home (E) 3-17/2003-II dated 24th November 2005]

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Ref. No.: HPJA/ Nomination others/2014-15/

Dated: 29.6.2016

To

The Director,
Rajasthan State Judicial Academy,
Near Jhalamand Circle, Old Pali Road,

Jodhpur- 342 013(Rajasthan).

[Phone: 0291-2721787, 2721788, 2720107 Fax No.: 0291-2720108 & Email ID: rsjafc2016@gmail.com].

Subject: 1st Regional Conference on Sensitization on Family Court Matters at Jaipur (Rajasthan) on 09.07.2016.

Sir,

“Jai Hind”

Kindly refer to your letter No. RSJA/In-serv-Trng/Conference/2016/1068 dated 27.06.2016, on the subject cited above.

In this regard, it is intimated that the following Judicial Officers have been nominated for attending the first Regional conference on “Sensitization on Family Court Matters” being organized by Rajasthan State Judicial Academy on 9th July, 2016, at Jaipur:

S. No.	Name, Designation and place of posting of the Officer	Contact Nos.	E-mail ID
1.	Sh. Sushil Kukreja, Presiding Judge, Labour Court-cum-Industrial Tribunal, Shimla	94180-61616	sushilkukreja.dsj@gmail.com
2.	Sh. Arvind Malhotra, Registrar (Vigilance), High Court of H.P., Shimla	94180-11132	arvind_malhotra2001@yahoo.com
3.	Sh. Purender Vaidya, President, District Consumer Disputes Redressal Forum, Mandi	98161-33300	purenderv@yahoo.com
4.	Sh. Ram Krishan Sharma, Legal Adviser to Lokayukta, H.P., Shimla	94180-00323	ram23krishna@gmail.com
5.	Sh. Yashwant Singh, Member Secretary, H.P. State Legal Services Authority, Shimla	94180-26933	yehogal@yahoo.com
6.	Sh. Bhupesh Sharma, District and Sessions Judge, Hamirpur	94184-99600	bhupesh.sharma@indianjudiciary.gov.in



7.	Sh. Vikas Bhardwaj, Additional District and Sessions Judge, Ghumarwin, District Bilaspur	94180-76813	vbhardwajadv@gmail.com
8.	Sh. Rajeev Bali, Additional District and Sessions Judge-I, Kangra at Dharamshala	94180-93366	bali.rajeev@yahoo.com
9.	Sh. Barinder Thakur, Additional District and Sessions Judge, CBI Court, Shimla	94182-27566	barinderth@gmail.com
10.	Sh. Aman Sood, Additional District and Sessions Judge-II, Una	94180-43999	amansoodhpjudiciary@gmail.com

This is for your kind information and further necessary action, please.

Thanking you,

Yours faithfully,

(Rakesh Kainthla)

Director

Endst. No.: HPJA/ Nomination others/2014-15/ 2546

Dated: 29.06.2016

Copy forwarded to:

1. The Deputy Registrar-cum-Special Private Secretary to Hon`ble the Chief Justice, High Court of H.P. (Hon`ble Patron of the Academy); with the request to place this letter before His Lordship for kind perusal, please.
2. The Secretary to Hon`ble Mr. Justice Rajiv Sharma, Judge, High Court of H.P. (Hon`ble President of the Academy); with the request to place this letter before His Lordship for kind perusal, please.
3. The Ld. Registrar General, High Court of H.P., Shimla (H.P.); for information, please.
4. The Registrar (Vigilance), High Court of H.P., Shimla (H.P.); for information and further necessary action, please.
5. The District & Sessions Judge(s), Bilaspur/ Hamirpur/ Kangra at Dharamshala/ Shimla/ Una (H.P.); with the request to inform the respective Judicial Officers posted in their Civil & Sessions Division to attend the aforesaid conference at Jaipur.
6. The Presiding Judge, Labour Court-cum-Industrial Tribunal, Shimla; for information and further necessary action, please.
7. The President, District Consumer Disputes Redressal Forum, Mandi; for information and further necessary action, please.
8. The Legal Adviser to Hon`ble Lokayukta, H.P., Shimla; for information and further necessary action, please.
9. The Member Secretary, H.P. State Legal Services Authority, Kasumpti, Shimla – 9; for information and further necessary action, please.
10. The Director, Rajasthan State Judicial Academy, Jaipur; for information and further necessary action, please.



11. The Registrar, H.P. State Consumer Disputes Redressal Commission, Kasumpti, Shimla-9; for information and further necessary action, please.
12. All the concerned Judicial Officers nominated for attending the aforesaid conference (by name); with the request to attend the aforesaid conference on 9th July, 2016. The venue of the conference is **Auditorium of Aranya Bhawan, Jhalana institutional area, Jaipur**. The programme is interactive in nature, and therefore, the participating Officers have been requested to go through **Concept Note and Module** and participate actively in the conference. The stay arrangement of the participating officers is at **Red Fox Hotel, Jawahar Lal Nehru Marg, Jaipur**. You are also requested to send your travel plans (arrival and departure) along with Email address and mobile number through email at rsjafc2016@gmail.com upto 4.7.2016 positively to facilitate necessary arrangements for transportation, stay etc. Due to accommodation constraints, you are requested to share accommodation, and any request to accompany the spouse may not be honoured. For all the information and latest updates you are requested to regularly visit the official website of Rajasthan State Judicial Academy i.e. rajasthanjudicialacademy.nic.in. A copy of **Concept Note** is attached herewith for kind perusal.
13. The System Analyst of Academy; with the direction to upload the same in the website of the Academy and also to send the same to the concerned officers through e-mail and Rajasthan State Judicial Academy at E-mail ID: rsjafc2016@gmail.com through e-mail.


Director

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Concept note

1st Regional conference for Sensitization on Family Court Matters.

1.0 Introduction

The dynamic steps to establish "The Family Courts" and introduction of The Family Courts Act 1984 is to provide the speedy, smooth and effective disposal of cases and to facilitate satisfactory resolution of family disputes while ensuring maximum welfare, bonding of social relationship and maintaining the dignity of individual. There are certain issues which are a matter of concern and often create hurdles in speedy and effective working of these courts. Act emphasizes on settling the disputes by conciliation and mediation instead of traditional formal legal system and regular process of adjudication. Family Court disputes are concerned with human relationship including marital, mother/father-child relationship and welfare of child. The aim of Family Court is to encourage reconciliation and ensure speedy settlements of family disputes.

2.0 The Specific objectives of the conference

The main objective of this regional conference is to sensitize Family Court Judges regarding their effective role that they can play in resolving these disputes by providing an amicable, congenial and friendly atmosphere for settlement. The stake holders involved with Family Courts viz. Judges, Counselors, Mediators, and psychologists, are supposed to act in the best interest of family, child and society and must be educated and

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sensitized about human psychology and must possess special knowledge to control the desperate emotions, personality disorders and update themselves with the development of social trends along with new laws. Lack of training on these sensitive issues is an important factor in delaying family disputes.

3.0 Rationale for the colloquium

Hon`ble Apex court in it`s verdict given in Cr.Appeal Nos.564,564 of 2015 Shamima Farooqui Vs.Shahid Khan while referring the previous verdict given in Bhuvan Mohan Singh Vs Meena &Ors.AIR2014 SC2875,:" has observed ;

"The Family Judge is expected to be sensitive to the issues, for he is dealing with extremely delicate and sensitive issues pertaining to the marriage and issues ancillary thereto. We do not mean that the Family Courts should show undue haste or impatience, but there is a distinction between impatience and to be wisely anxious and conscious about dealing with a situation."

"A Family Court Judge should remember that the procrastination is the greatest assassin of the Lis before it not only gives rise to more family problems but gradually builds unthinkable and ever lasting bitterness. It leads to the court refrigeration of the hidden feelings, if still left. The delineation of the Lis by the family Judge must reveal the awareness and balance. Dilatory tactics by

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any of the parties has to be sternly dealt with, for the Family Court Judge has to be alive to the fact that the Lis before him pertains to emotional fragmentation and delay can feed it to grow. The hope and trust that the Family Court Judges shall remain alert to this and decide the matters as expeditiously possible keeping in view the objects and reasons of the act and the scheme of various provisions pertaining to grant of maintenance, divorce, custody of child, property disputes etc.”

Hon`ble court also highlighted the observation of Hon`ble Supreme Court given in case of K.A. Abdul Jaeel Vs T.A.Shaida (2003)4 SCC166 :

“ The Family Courts act was enacted to provide for the establishment of Family Court with view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.”

“The reason for enactment of the said act was to setup a court which would deal with disputes concerning the family by adopting any approach radically different from that adopted in ordinary civil proceedings.”

The Concept of Family Court was introduced to exclusively deal with matrimonial and other family problems associated with the institution of marriage. Family Court functioning is quite different from regular civil and criminal courts. Family Justice System is facing various difficulties regarding procedural drawbacks, lack of training, and other related

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problems which adversely affect to resolve the family disputes speedily, effectively & as per the true spirit of The Act.

It is significant that these Family Courts have been setup to protect social values, dignity of persons and welfare of the society but there are still matters of concern which adversely affect to reduce the backlog and effective resolutions/ disposal of family disputes. This colloquium is aimed to sensitize the Judges posted in Family Courts and to suggest or explore various modalities for timely justice in family matters.

4.0 Bottlenecks & areas of improvement

- Lack of specialized training to stake holders of family courts.
- Lack of co-ordination & co-operation among judge, mediator, counselor and psychologist.
- Improper selection of mediators, counselors and psychologists.
- Want of permanent recruitment of psychologist.
- Lack of case dependent expert counselors and mediators according to mental and social status of various parties.
- Burden of quota system and hasty disposal of cases.
- Less effective and some times improper use of mediation and conciliation proceedings and avoidance of work in complicated cases.
- Unwarranted interference of advocates inside and out side the court.
- Lack of legal representation on complicated legal issues.
- Lack of knowledge about electronic evidence etc.
- Cases pending in Family Courts have their many more companions like cases u/s 498A I.P.C., cases under DV Act, Maintenance cases

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etc., which are pending in other courts create complications in disposal of family disputes.

- Pendency of cases under sec. 125 Cr. P.C. and various recovery proceedings consumes valuable time of courts.
- Lack of uniformity in Rules all over India. All High Courts have laid down different rules of procedure which also makes a difference when parties coming to these courts are from different regions, which leads to confusion in implementing the Family Courts Act in its true spirit.
- Judges and other stake holders are not well aware of inter-country adoption and custody law & procedure.
- Inordinate delay in service of summons upon parties who reside out of Jurisdiction/ India.
- Lack of infrastructure such as building, sufficient space, drinking water, recreational space like crèche for the small children accompanying the litigants, counselor rooms etc.
- No dilution of Cooling period- in petitions by mutual consent for divorce, parties plead that the divorce petition has already been pending so six months cooling period is not required for divorce by mutual consent. Dilution of statutory cooling off period can be availed only under article 142 of the Constitution.

5.0 Proposed Module

Tentative detail of topics to be covered in each session of the conference:-

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Session –I	<ul style="list-style-type: none">• Key Challenges and issues before the Family Courts including Need for extensive use of counselors & Trained Mediators in Family Matters.
Session-II	<ul style="list-style-type: none">• Custody of child• Visitation Rights and Shared Parenting.
Session-III	<ul style="list-style-type: none">• Maintenance and grant of interim maintenance.
Session- IV	<ul style="list-style-type: none">• Adoption under the Hindu Adoption and Maintenance Act, 1956 and its salient features and Adoption under other Personal laws.
Session-V	<ul style="list-style-type: none">• Divorce/ Annulment of marriage areas of concern.
Session-VI	<ul style="list-style-type: none">• Open House Interactive Session on each topic presented by the Speakers.• All Family/ Additional Family Judges are expected to participate actively.

6.0 General guidelines

- The purpose of the sessions is to share knowledge and skills and highlight key issues through new ideas and insights
- Discussions are expected to be pointed, specific and practical.
- The sessions will be interactive in nature. Participants are requested to be more and more interactive and deliberate on all the key issues and challenges faced by them.

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- Participants are further requested to kindly go through the ibid judgments of Hon'ble Apex Court to make the conference more advantageous and a successful one.
- Final module of the Regional Conference will soon be uploaded on the website of Rajasthan State Judicial Academy.
- Nominated officers are advised to visit the website of Rajasthan State Judicial Academy i.e. www.rajasthanjudicialacademy.nic.in