

HIGH COURT OF JAMMU AND KASHMIR

(Office of the Registrar General at Jammu)

Subject: Guidelines for the Conduct of Court Proceedings between Courts and Remote Sites and the VC facilities set up at other places.

NOTIFICATIONNo. 1282Dated 11/02/2020

Hon'ble the Chief Justice has been pleased to lay down the following guidelines for holding trials, recording evidence, giving remands and other allied matters through electronic video linkage (VC):

INTRODUCTION

Video conference facilities enabling audio and visual communication between persons at different locations have now been installed in:

- High Court of Jammu and Kashmir
- All the Court Complexes of U.Ts of Jammu and Kashmir and Ladakh.
- All the prisons in the UTs of Jammu and Kashmir and Ladakh.

Video-conferencing facilities provided in the Courts in UTs of Jammu and Kashmir and Ladakh with the capacity to record evidence, grant remands etc. in Court proceedings in circumstances where it would be expensive, inconvenient or otherwise not desirable for a person to attend a Court in person. An over-riding factor is that use of video-conferencing in any particular case must be consistent with furthering the interests of justice and should cause minimal disadvantage to the parties. However, it is for the Court to decide whether evidence should be recorded by video-conferencing.

1. General

- 1.1 In these guidelines, reference to the "Court Point" means the courtroom or other place where the Court is sitting or the place where Commissioner appointed by the Court to record the evidence by video conference is sitting and the 'remote point is the place where person to be examined via video conference is located, for example, a prison.
- 1.2 Person to be examined includes a person whose deposition or statement is required to be recorded or in whose presence certain proceedings are to be recorded.
- 1.3 Wherever possible, proceedings by way of video conference shall be conducted as judicial proceedings and the same courtesies and protocols will be observed. All the relevant statutory provisions applicable to judicial proceedings including the provision of the Information Technology Act, 2000 and the India Evidence Act, 1872 shall apply to recording of evidence by video conference.
- 1.4 Video conferencing facilities can be used in all matters including remands, bail applications and in civil and criminal trials where a witness is located intrastate, interstate, or overseas. However, these guidelines will not apply to proceedings under section 164 of Cr.P.C.
- 1.5 The guidelines applicable to a Court will *mutatis mutandis* apply to a Local Commissioner appointed by the Court to record the evidence.

2. Appearance by Video Conference

- 2.1 A Court may either suo moto or on an application of a party or a witness, direct by reasoned order that any person shall appear before it or give evidence or make a submission to the Court through video conference.

2.2 The schedule of Video Conference shall be communicated to remote site well in advance so as to avoid conflict of time slots at remote site.

3. Preparatory arrangements for video conference

3.1 There shall be Co-ordinators both at the Court point as well as at the remote point.

3.2 In the High Court, Registrar Computers shall be the co-ordinator at the Court point.

3.3 In the District Courts, official-in-charge of the Video Conferencing Facility holding the post of System Officer shall be the co-ordinator at the Court point.

3.4 The Co-ordinator at the remote point may be any of the following:-

- (i) Where the person to be examined is overseas, the Co-ordinator shall be the official of Consulate/Embassy of India, who shall also verify the identity of the person to be examined;
- (ii) Where the person to be examined is in another State/U.T, a Judicial Magistrate or any other responsible official as may be deputed by the District Judge concerned or Sub-Divisional Magistrate or any other responsible official as may be deputed by the District Collector concerned;
- (iii) Where the person to be examined is in custody, the concerned Jail Superintendent or any other responsible official deputed by him;
- (iv) Where the person to be examined is in a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, the Medical Superintendent or In-charge of the said hospital or any other responsible official deputed by him;
- (v) Where the person to be examined is a juvenile or a child who is an inmate of an Observation Home/Special Home/Children's Home/Shelter Home, the Superintendent/officer In-charge of that Home or any other responsible official deputed by him;
- (vi) Where the person to be examined is in women Rescue Homes (Nari Niketan etc.), the Superintendent/Officer In-charge of the Women Rescue Home or any other responsible official deputed by him;

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(vii) Wherever co-ordinator is to be appointed at the remote point under Clause 3.4 sub-clause (ii), (iii), (iv), (v) & (vi), the Court concerned will make formal request through District Judge concerned to concerned official.

(viii) In case of any other person, as may be ordered by the Court.

3.5 The co-ordinators at both the points shall ensure that the minimum requirements as mentioned in the Guideline No.4 are in position at Court point and the remote point and shall conduct a test between both the points well in advance, to resolve any technical problem so that the proceedings are conducted without interruption.

3.6 It shall be ensured by the co-ordinator at the remote point that:-

(i) The person to be examined or heard is available and ready at the Court/room earmarked for the video conference at least 30 minutes before the schedule time.

(ii) No other recording device is permitted except the one installed in the Court/video conferencing room.

(iii) Entry into the Court/video conferencing room will be regulated.

3.7 It shall be ensured by the co-ordinator at the Court point that the Co-ordinator at the remote point has certified copies or soft copies of all or any part of Court record in a sealed cover directed by the Court sufficiently in advance of the scheduled video conference.

3.8 The Court shall order the co-ordinator at the remote point or at the Court point wherever it is more convenient, to provide:-

(i) a translator in case the person to be examined is not conversant with Court language;

(ii) an expert in sign languages in case the person to be examined is speech and/or hearing impaired;

(iii) for reading of documents in case the person to be examined is visually challenged;

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- (iv) an interpreter or special educator, as the case may be, in case the person to be examined is temporarily or permanently mentally or physically disabled.

4. Minimum requisites for video conference

- (i) A desktop or laptop with internet connectivity and printer
- (ii) Device ensuring uninterrupted power supply
- (iii) Video Camera
- (iv) Microphones and speakers
- (v) Display unit
- (vi) Comfortable sitting arrangements ensuring privacy
- (vii) Adequate lighting
- (viii) Insulations as far as possible/proper acoustics
- (ix) Digital signatures from licensed certifying authorities for the co-ordinators at the Court point and at the remote point.

5. Cost of Video Conferencing

- 5.1 In criminal cases, the expenses of the video conference facility including expenses of preparing soft copies/certified copies of the Court record for sending to the co-ordinator at the remote point and fee payable to translator/interpreter/special educator, as the case may be, and to the co-ordinator at the remote point shall be borne by such party as the Court directs taking into account the Rules governing the subject.
- 5.2 In civil cases, as a general rule, the party making the request for recording evidence by video conference shall bear the expenses.
- 5.3 No one shall be allowed to record video conference, except with the prior approval of court.
- 5.4 In other cases, the Court may make an order regarding expenses as it considers appropriate taking into account rules/instructions regarding payment of

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expenses to complainant and witnesses as may be prevalent from time to time.

6. Procedures generally

- 6.1 The identity of the person to be examined shall be confirmed by the Court with the assistance of the co-ordinator at remote point at the time of recording of the evidence.
- 6.2 In civil cases, party requesting for recording statement of the person to be examined by video conferencing shall confirm to the Court location of the person, his willingness to be examined by video conferencing, place and facility of such video conferencing.
- 6.3 In criminal cases, where the person to be examined is a prosecution witness or Court witness, the prosecution and where the person to be examined is a defence witness, the defence counsel will confirm to the Court his location, willingness to be examined by Video conferencing, place and facility to such video conferencing.
- 6.4 In case person to be examined is an accused, prosecution will confirm his location at remote point.
- 6.5 Video conferencing shall ordinarily take place during the Court hours. However, the Court may pass suitable directions with regard to timings of the video conferencing wherever special circumstances exist.
- 6.6 The record of proceedings including transcription of statement shall be prepared at the Court point under supervision of the Court and same shall be duly authenticated. The soft copy of the transcript digitally signed by the Judge/Judicial Magistrate in case of District & Subordinate courts and by Coordinator in case of High Court shall be sent by e-mail through NIC or any other Indian Service provide to the remote point where printout of the same will be taken and

signed by the deponent. A scanned copy of the statement digitally signed by co-ordinator at the remote point would be sent by e-mail through NIC or any other Indian service provider to the Court point. The hard copy would also be sent subsequently, preferably within three days of the recording, by the co-ordinator at the remote point to the Court point courier/mail.

- 6.7 The court may, at the request of a person to be examined, or on its own motion, taking into account the best interest of the person to be examined, or for any other sufficient reason, direct appropriate measures to protect his privacy regard being had to age, gender and physical condition.
- 6.8 Where a party or a lawyer requests that in the course of video-conferencing some privileged communication may have to take place, Court will pass appropriate directions in that regard.
- 6.9 The audio shall be recorded at the Court point. An encrypted master copy with hash value shall be retained in the Court as part of the record. Another copy shall also be stored at any other safe location for backup in the event of any emergency. Transcript of the evidence recorded by the Court shall be given to the parties as per applicable rules. A party may be allowed to view the master copy of the audio recording retained in the Court on application which shall be decided by the Court.
- 6.10 The co-ordinator at the remote point shall be, paid such amount as honorarium as may be decided by the Court in consultation with the parties.
- 6.11 In case any party or his/her authorized person is desirous of being physically present at the remote point at the time of recording of the evidence, it shall be open for such party to make arrangements at

party's own costs including for appearance/representation at the remote point subject to orders to the contrary by the Court.

7. Putting documents to a person at remote point

If in the course of examination of a person at remote point by video conference, it is necessary to put a document to him, the Court may permit the document to be put in appropriate manner.

8. Persons unconnected with the case

- 8.1 Third parties may be allowed to be present during video conferencing subject to orders to the contrary, if any, by the Court.
- 8.2 Where, for any reason, a person unconnected with the case is present at the remote point, then that person shall be identified by the Co-ordinator at the remote point before the start of the proceedings and the purpose for his being present explained to the Court.

9. Conduct of proceedings

- 9.1 Establishment and disconnection of links between the Court point and the remote point would be regulated by order of the Court.
- 9.2 The Court shall satisfy itself that the person to be examined at the remote point can be seen and heard clearly and similarly that the person to be examined at the remote point can clearly see and hear the Court.

10. Cameras

- 10.1 The court shall at all times have the ability to control the camera view at the remote point so that there is an unobstructed view of all the persons present in the Court/room.
- 10.2 The Court shall have a clear image of each deponent to the extent possible so that the demeanour of such

person may be observed, which may be recorded specifically wherever required.

11. Residuary Clause

Such matters with respect to which no express provision has been made in these guidelines shall be decided by the Court consistent with furthering the interests of justice.

By order;

(Sanjay Dhar)
Registrar General

No. 35657-80/Ag

Dated 11/02/2020

Copy to the:

1. Principal Secretary to Hon'ble the Chief Justice, High Court of J&K,
2. Secretary to Hon'ble Mr. Justice _____
..... for information of Their Lordships.
3. Registrar Vigilance, High Court of J&K, Jammu,
4. Registrar Rules, High Court of J&K, Jammu,
5. Registrar Judicial, High Court of J&K, Srinagar/Jammu,
6. Presiding Officers of all the Courts of UTs of J&K and Ladakh,
..... for information and necessary action.
7. Registrar Computers, High Court of J&K, Jammu, for information and with the request to upload the same on the official website of the High Court.
8. General Manager, Government Press Jammu, for information and with the request to publish the same in the next issue of the Government Gazette.
9. Concerned Office/Notification file.

Registrar General