

## Online Stream and Recording of Court Proceedings: A Constitutional Right

*Akshay Baburao Yadav<sup>1</sup>&  
Shivanjali Mane<sup>2</sup>*

*“Yatho Dharma ThathoJya”- where there is justice, there is victory.*

### *Abstract*

*The judiciary takes a prominent role in every democratic country. The meaning of democracy is vague without independence and propend judiciary. The judiciary endorses to maintain check and balance between the executive and legislative. Besides all this, now the situation like Covid 19 makes the system more aggravate. To avoid this, India has to take the alternative in this digital era. Our attitude towards the court system has been developed in such a way that, when the word judiciary comes to our mind, we start to create the image of courtrooms in our mind. Virtual judiciary is another form of deliration of justice without any physical existence of the court room. This paper lays down emphasis on the Constitutional Right to Access to Justice especially by means of draft Model rules of Live Streaming and Recording of Court Proceedings published by E-Committee, Supreme Court of India, Information and Communication Technology in Indian Judiciary on 28<sup>th</sup> May 2021. Further it analysis the international best practices to find out the challenges and remedies revolving around the online streaming and recording of court proceeding which promotes reinforcing of public faith, transparency in Judicial System. This paper neither favoring online court proceedings or nor critiquing the traditional court proceedings. But the paper tries to balance between global development, technological advancement and hit of pandemic during that. It also takes bird eye view on judicial decisions. Lastly paper ends with personal analysis and suggestions regarding the possible challenges and remedies.*

**Key-words:** *Online streaming, Recording of Court Proceedings, E-courts system, video conferencing of court proceedings.*

---

<sup>1</sup> Teaching Associate, National Law School of India University, Bengaluru; Next Generation Leader, Consumer International.

<sup>2</sup> Student, K.L.E. Society's Law College Chikodi

## I. INTRODUCTION

The world has witnessed the grapples of the COVID-19 pandemic and has presented with various challenges and an opportunity to adopt technology. The technology has brought the whole world closer on a single click by turning it into a global village alias cyberspace of digital world estimating 3.8 billion of smart phone users at global level wherein India estimates 760 million smart phone users as on 29<sup>th</sup> June 2021<sup>3</sup> and in 2020, India has nearly 700 million internet users across the country<sup>4</sup>. This advent has also brought justice delivery system at the door step by means of so called ‘Online Dispute Resolution’<sup>5</sup> and has given the meaning to saying The State has the obligatory duty to render and protect the rights of its citizens enhancing Access to Justice and it was being very difficult as the complete lockdown during the pandemic period has changed the patterns of lifestyle of all human beings. But the adoption of the technology is been ensuring the access to justice which would not come to a standstill in view of the health risks, travel restrictions and social distancing measures owing towards Covid-19. The courts have to have to find out new possibilities during the pandemic to render justice and court adopted both virtual and in-personal hearing. The Kerala High Court within whose jurisdiction the first COVID-19 patient in India is confirmed, has put restriction on the entry of public to court complex and became the first court in the country to start hearing of matters via video conferencing and started live streaming proceedings in India and disposed of 7521 cases through video conferencing. The highest number of e-filing was recorded in the district and session courts. The highest disposal rate was given by the local courts. 401 cases were registered via e-filing and 400 cases disposed through video

---

<sup>3</sup> Shanglian Sun, Statista Research Department, “Smartphone users in India” (Jul. 5, 2021, 3.30 PM) <https://www.statista.com/statistics/467163/forecast-of-smartphone-users-in-india/>.

<sup>4</sup> Sandhya Keelery, Number of internet users in India 2015-2025 (Jul. 5, 2021, 4 PM), <https://www.statista.com/statistics/255146/number-of-internet-users-in-india/>.

<sup>5</sup> UNCITRAL Technical Notes on Online Dispute Resolution, Official Records of the General Assembly, Seventy-first Session, Supplement No.17 (A/71/17), Para. 217. Defines ODR as is a “mechanism for resolving disputes through the use of electronic communications and other information and communication technology”. The process may be implemented differently by different administrators of the process, and may evolve over time.

conferencing setting.<sup>6</sup>As described by the Australia courts as, ‘E-courts have resulted in reduction of trial time and are likely to reduce the costs of trial’.<sup>7</sup> The same is been statutorily recognized under various legislation in India such as Information Technology Act 2000, The Indian Evidence Act 1872, Consumer Protection Act 2019<sup>8</sup>. The judiciary has also recognized video conferencing is a valid mode and is permitted. Actual presence of the parties is not necessary for conversation and concluding of contract as it can be done by electronic media and technology.<sup>9</sup>

## II. THE GLOBAL DEVELOPMENT OF ONLINE COURT SYSTEMS

The development of the Online Court system is an advent of the western countries. The reference of this system, can be found in 1997 in the writings of Professor Frederick I Lederer,

‘The Courtroom is a place of adjudication, but it is also an information hub. Outside information is assembled, sorted and brought into the Courtroom for presentation. Once presented, various theories of interpretation are argued to the fact finder who then analyses the data according to prescribed rules (determined by the judge through research, analysis and interpretation) and determines a verdict and result. The Courtroom is thus the centre of a complex system of information exchange and management. Ultimately because lawyers and judges deal continuously with ‘data’, high technology Courtrooms exist and Virtual Courtrooms are possible.’<sup>10</sup>

---

<sup>6</sup>Mc Glothlin Courtroom (W & M Law school) (Jul. 4<sup>th</sup>, 2020, 8.15PM) <http://www.livelaw.in/news-updates/covid-and-courts-kerala-courts-dispose-10919-cases-via-video-conferencing-155097>.

<sup>7</sup>*Harris Scarfe and others v. Ernst and Young*, No. 3, (2005) SASC 407.

<sup>8</sup> Sec. 35 & 38(6) Consumer Protection Act, 2019-empowered its three-tier mechanism to consider the complaint filed through electronic modes and has also authorized to hear examination of the parties through video conferencing.

<sup>9</sup>*State of Maharashtra v. D. Praful B. Desai* (2003) 4 SCC 601, *Grid Corporation of Orissa Ltd. v. AES Corporation* AIR 2002 SC 3435, *Shakti Bhog Food Ltd. v. Kola Shipping Ltd.* (2009) 2 SCC 134.

<sup>10</sup> Frederick I Lederer, *The Courtroom as a Stop on the Information Superhighway, REFORM*, Spring 1997, 4,4

The Lederer's writings have given pace to digital incursion in all facets of human activity including shopping, governments using these in facilitating schemes, social welfare benefits etc. and has become the omnipresent feature of Courtroom. The US McGlothlin Court room set up at The Centre for Legal and Court technology is the world's most technologically advanced trial and appellate Courtroom.<sup>11</sup> This Courtroom allows the judges, counsel, witnesses, interpreters, court reporters, and jurors to appear the court from remote areas. The audio recording of all oral arguments by Supreme Court of United States began since 1955 and are maintained by National Archives and Records Administration. The US Supreme Court network pool will distribute the teleconference live audio feed to network subscribers. C-SPAN will distribute the audio live via the Capitol Hill hub to all news organizations accredited by the Congressional Radio and Television Gallery<sup>12</sup>. The Singapore's Technology Court<sup>13</sup>, has a Local Area Network which allows use of imaging, multimedia and video conferencing further it also allows litigation support system for presentation, a Computer Based Recording Transcription System (CBRT), a sophisticated audio-visual system (AVS) which allows various types of audios and video information to be presented with ease and a videoconferencing to allow foreign witnesses to give evidence in any proceedings. The Supreme Court Info Kiosk System (SCIS) which has touch sensitive screen and allows a user to obtain information on hearing schedules, the location of counter services in the Supreme Court and to call up a multimedia floor directory of the Supreme Court complex.<sup>14</sup> The various other countries such as Turkey's UYAP, Canada Videoconferencing technology<sup>15</sup>, Italy's Online Civil Trail has transformed the court system to be

---

<sup>11</sup>William And Mary Law School "Centre for Legal Court and Technology (Jul. 6 2021, 8 PM) <https://www.legaltechcenter.net/about-us/mcglathlin-courtroom/>.

<sup>12</sup> Supreme court of the United States media advisory regarding October teleconference argument audio (Jul. 7, 2021, 9 PM) [https://www.supremecourt.gov/publicinfo/press/pressreleases/ma\\_10-01-20](https://www.supremecourt.gov/publicinfo/press/pressreleases/ma_10-01-20).

<sup>13</sup>The Singapore's Technology Court (Jul. 7, 2021, 7 PM) <http://www.gov.sg/judiciary/supremect/computerisation/index.html>.

<sup>14</sup>Allison Stanfield, Cyber courts: using the Internet to assist court processes, (Jul. 4, 2021, 6.34 PM) <http://www.ra.ethz.ch/cdstore/www7/1878/com1878.htm>

<sup>15</sup> Amy Salyzyn, *A New lens: Reframing the conversation about the use of videoconferencing in civil trials in Ontario* 'Osgoode HALL LAW JOURNAL 2012 vol. 50(2) 431). See also Rule 1.08 of the Ontario Rules of Civil Procedure provides that a witness's oral evidence at trial may be received by videoconference if the parties consent;

more transparent. The unpredictable pandemic lockdown has brought forth crisis affecting human lives and also crippled the functioning of Judiciary. In order to adjudicate discharge its constitutional mandate of providing access to justice at all times, the Courts has rolled out Virtual Court hearings. The best practices that are followed with respect to online streaming and recording of court proceedings in other countries are as follows,<sup>16</sup>

- **United States:** since 1955 audio recording and transcripts of oral arguments has been allowed.
- **Australia:** live or delayed broadcasting is allowed but the practices and norms differ across courts.
- **Brazil:** since 2002 live video and audio broadcasting of court proceeding, including the deliberations and voting process undertaken by the judges in court is allowed.
- **Canada:** proceedings are broadcast live on cable parliamentary affairs channel, accompanied by explanations of each case and the overall process and powers of the court.
- **South Africa:** since 2007 the SC of South Africa has allowed the media to broadcast court proceedings in criminal matters as an extension of the right to freedom of expression.
- **United Kingdom:** after 2005 proceedings are broadcast live with a one-minute delay on the court websites but coverage can be withdrawn in sensitive Appeals.

### III. COMMENCEMENT OF THE IDEA OF LIVE STREAMING OF COURT PROCEEDINGS

All the Courts are functioning through video conferencing throughout the Covid-19 lockdown and even at the instant. Advocates, the parties, victims, corpses etc. all are participating within the court proceedings during the course of the hearing through video conferencing. Also, within the model video conferencing rules as prescribed by the e-Committee of the Supreme Court, it has been only if the overall public are visiting be allowed to appear at the hearing conducted through

---

and that in the absence of consent, evidence may be received by videoconference upon motion or on the court's own initiative.

<sup>16</sup> Live Streaming of the Supreme Courts Proceedings (Jul. 5, 2021, 6PM) <https://www.drishtias.com>

video conferencing. The Supreme Court in *Swapnil Tripathi v Supreme Court of India*<sup>17</sup> has ruled in favor of opening up the apex court through live-streaming. It held that the live streaming proceedings may be a component of the correct to access justice under Article 21 of the Constitution. However, the judgment has remained unimplemented. The e-Court Mission Mode Project was conceptualized with a vision to transform the Indian Judiciary by ICT enablement of Courts. The Learned Attorney General of India Mr. K. K. Venugopal submitted his proposition<sup>18</sup> for live streaming of court proceedings. Mr. Venugopal was retorting to the Writ Petition No. 66 of 2018 filed by Senior Advocate Indira Jaising, who was seeking a declaration for allowing live streaming of the case proceedings within the Hon'ble Supreme Court in cases which hold constitutional and national importance. She had also focused on framing of guidelines with relevancy live streaming. The Hon'ble Court held the Ratio Decidendi of the case within the purpose that 'live streaming is basically the use of technology to 'virtually' expand the courtroom area beyond the physical four walls of the courtrooms<sup>19</sup>.

Recently, the Standing Committee of the Parliament tabled its 103rd Report titled as “103rd Report on Functioning of Virtual Courts/Court Proceedings through Video Conferencing” before both the Houses of Parliament on 11–9-2020<sup>20</sup> through Vide Para 2.38 (at p. 10) of the Report, the said Public Accounts Committee (PAC) Report observed thus:

*2.38 The Committee notes that world over, court proceedings are recorded in some form or the other. The Supreme Court has time and again emphasized the significance of live streaming of court proceedings in promoting openness and transparency which in turn reinforce public faith in judicial system. The Committee agrees with the observation made by the Supreme Court that live*

---

<sup>17</sup> *Swapnil Tripathi v. Supreme Court of India* (2018) SCC 628.

<sup>18</sup> Writ Petition No. 66 of 2018.

<sup>19</sup> THE HINDU: LIVE STREAMING OF COURT PROCEEDINGS (Jul. 4, 2021, 5 PM) <https://www.thehindu.com/news/national/live-streaming-of-court-proceedings>.

<sup>20</sup> 103<sup>rd</sup> Report prepared by the Rajya Sabha Secretariat New Delhi in September 2020. The Report was prepared by the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, comprising eminent members of the Bar like Shri Bhupender Yadav, Mr. Vivek K. Tankha, Mr. P. Wilson and thirty other members of Parliament.

*streaming court proceedings, especially cases of constitutional and national importance having an impact on public at large or a section of the public will promote transparency and openness. The litigant need not come to the court to watch the proceedings and thus will reduce crowding inside the court. The judiciary may also consider broadcasting virtual hearings of certain specified categories of cases to further the principle of open justice and open court.”*

Opening the vista of the Courtrooms transcending the four walls to accommodate an oversized number of viewers can epitomize transparency, good governance, and accountability. It absolutely was said that since no one can plead ignorance of law, there is a corresponding obligation on the State to spread awareness about the law and so the developments thereof including the evolution of the law which might happen within the method of adjudication of cases before this Court.

Whereas to imbue greater transparency, inclusivity and foster access to justice, it's expedient to line up infrastructure and also the framework to enable live-streaming and recording of Proceedings These Rules are framed by the state supreme court of Judicature within the exercise of powers under Article 225 or relevant statute where applicable, and Article 227 of the Constitution of India. These Rules will apply to the tribunal of Judicature and to the courts and tribunals over which its supervisory jurisdiction<sup>21</sup>.

The right to access justice, guaranteed under Article 21<sup>22</sup> of the Constitution, encompasses the right to access live court proceedings. An India stand alone amongst leading constitutional democracies is not maintaining audio or video recording or even a transcript of court proceedings. The Indian Constitution upholds the social dignity of Indian citizens by establishing fundamental rights. The inherent rights guaranteed by the Indian Constitution that extol the esteem of someone's existence include 'Equality,' 'Freedom,' 'Cultural and academic rights,' 'Freedom of faith,' and 'Constitutional remedies.' But, to what extent do these rights complement each other in terms of managing the results and sustaining India's democratic machinery?<sup>23</sup>The Hon'ble Supreme Court of India on

---

<sup>21</sup> Constitution Of India, Article 225

<sup>22</sup> Constitution of India, Article 21

<sup>23</sup> The world's most technology advanced trial and appellant courtroom, live law hearing on live streaming committee (Jul. 4, 2021, 4.20 PM), <http://www.livelaw.in> (Jul. 4, 2021).

26.09.2018 through the Writ Petition (Civil) No. 1232 of 2017<sup>24</sup> with Writ Petition (Civil) No. 66 of 2018<sup>25</sup>, Writ Petition (Civil) No. 861 of 2018<sup>26</sup> and Writ Petition (Civil) No. 892 of 2018<sup>27</sup> allowed the 'Live Streaming of Supreme Court case proceedings on issues being constitutional and of national importance having an effect on the overall public at large or an outsized number of people'. The Constitution of India through Article 19 (1) (a) confers right to freedom of speech and expression to a citizen. Right to understand and receive information, it's by now settled, might be a facet of Article 19 (1) (a) of the Indian Constitution.<sup>28</sup> The Article 21, on the other hand, confers Right to Privacy to a personal. There's a core relation in between the Article 19 and also the Article 21 which collectively holds the dignity of the 'Live Streaming of Supreme Court's proceedings'.<sup>29</sup>

As rightly pointed out by Hon'ble Supreme Court in *Anita Kushwaha v. Pusha Sudan*<sup>30</sup> opined that Access to Justice as a constitutional value will be a mere illusion if justice is not speedy, if it is not reasonably accessible in terms of distance and if the litigants' access to the adjudicatory process is too expensive. It is the constitutional duty of the State to provide with such judicial infrastructure so that every person is able to receive an expeditious, inexpensive and fair trial. Similarly, Article 39-A of the Indian Constitution promotes a laudable objective of promoting legal Aid to the needy litigants and obliges the State to make access to justice affordable. In this endeavor Online Streaming and Recording of Court Proceedings is one such facet adopted by Government of India, which provides all the citizen including litigants to access the court proceedings.

---

<sup>24</sup>Swapnil Tripathi v. Supreme Court of India, (2018) 10 SCC 639.

<sup>25</sup> Indira Jaising v. Secretary General, (WRIT PETITION © NO. 33 OF 2016).

<sup>26</sup> Mathews J Nedumpara v. Supreme Court of India (writ petition no. 191 of 2019).

<sup>27</sup> Centre for Accountability and Systemic Change v. Supreme Court of India (WP (CIVIL) diary NO.10793/2020, order date. 1-4-2020).

<sup>28</sup> Chief Election Commissioner. v. M.R. Vijayabhaskar, (2021) SCC Online SCC 364, Supreme Court upheld the right of journalists and media to live report the court proceedings and observations, including even those that may not even be encrypted as part of the final order or judgment of the Court.

<sup>29</sup> State of U.P. v. Raj Narain (1975) 4 SCC 428 held that freedom of speech and expression is directly correlated with the right to information and the right to know about the happenings in the society especially those occupying positions of power.

<sup>30</sup> Anita Kushwaha v. Pusha Sudan (2016) 8 SCC 509.

#### IV. ONLINE STREAMING: SUPREME COURTS

The E-Committee of the Supreme Court has published the Draft Rules on Live-Streaming and Recording of Court Proceedings. The rules have been framed with the motive to "imbue greater transparency, inclusivity and foster access to justice"<sup>31</sup>. These rules will be applicable to all courts. The SC conducted court proceedings via video conferencing for the first time on March 27. The SC used the 'Vidyo' application for the online court proceedings. The apex court is also looking to live-stream court proceedings.<sup>32</sup>The access to stream live court proceedings was given to only a limited number of individuals who were at the Supreme Court premises. The development comes after the SC allowed lawyers to argue their cases through video conferences, file cases online 24×7 and also watch proceedings on smart TVs in the press rooms of the court complex. Court hearings are to be telecasted with a 10-minute delay<sup>33</sup>. Many Indian High Courts have experimented with live telecast of hearings recently. The draft rules state that the contents of recordings will be vetted and posted on the courts' website or made available on digital platforms usually within 3 days of the conclusion of the hearings. The live-stream of court proceedings can't be reproduced, transmitted, uploaded, posted, modified, published, or re-published in any form without the court's written authorization. Any acts in violation to the rules will be punishable under the Indian Copyright Act, Information Technology Act, and other provisions of law, including the law of contempt.

##### A. Hardware – Control & Placement

Cameras are going to be installed within the courtroom covering a minimum of five angles; one towards the Bench, the second and third towards the advocates engaged within the 4 concerned matter, the fourth towards the accused (where applicable) and therefore the fifth towards the deponent/witness, pro-re-nata. Within the event that the Court has employed an electronic evidence presentation system, a further feed shall be captured there from. A remote-control device shall be provided to the presiding judge on the Bench to pause or stop the Live-

---

<sup>31</sup>Live-Streaming and Recording of Court Proceedings (Jul. 6, 2021, 9.14AM) [www.Schorship.law.upenn.edu](http://www.Schorship.law.upenn.edu).

<sup>32</sup> *Ibid.*

<sup>33</sup> Lord Justice Bridge, Civil Court's Structure Review, Final Report, Judiciary (Jul. 5, 2021, 9AM) <http://perma.cc> .

streaming at any time. Advocates, witnesses, accused, or the other person permitted by the Bench, shall use appropriate microphones while addressing the Court. In up to now as an overseas Location is anxious, appropriate hardware are going to be deployed to the extent practicable, bearing in mind the provisions made within the aforementioned sub-rules. Where Proceedings are conducted through web links, including videoconferencing services, appropriate software and hardware are employed, if necessary, to come up with an integrated feed for Live-streaming.

### **B. Human Resource Requisitioning and Positioning**

A dedicated room (DCR) shall be founded for each court complex. The DCR shall, inter alia, comprise a political candidate of the Court, technical and video recording experts. The DCR will monitor and track Proceedings as they're live streamed, recorded, and transcribed. The DCR shall make sure that nothing uncivil or inappropriate is streamed within the property right. The coverage of Proceedings is going to be coordinated by the technical experts under the direct supervision of the Registrar (IT) or her/his nominee. The Registrar (IT) and/or their nominee shall be subject to the directions of the IT Committee for the general implementation of Live-streaming and Recording of Proceedings.

Technical expert(s) should be appointed/deputed at each of the Court Premises to facilitate the Live-streaming of Proceedings, in addition to the Court Master and court employees connected to the Bench. The technical expert(s) will work under the supervision of the DCR's overall oversight.

### **C. Live-streaming and Recording of Proceedings**

The Cases relating to matrimonial disputes, sexual offences, gender violence, child abuse, recording of evidence and those which may provoke enmity among communities have been excluded from ambit of live-streaming. Courts will be at liberty to decide on exclusion of any other categories of cases from live-streaming or increase in delay between the actual hearing and the telecast. Subject to the exclusions contained within these Rules, all Proceedings are Live-streamed by the Court. The following are visiting be excluded from Live-streaming:

- Matrimonial matters, including transfer petitions arising there under.
- Cases concerning sexual offences, including proceedings instituted under Section 376, Indian code, 1860 (IPC).

- Cases concerning gender-based violence against women.
- Matters registered under or involving the Protection of youngsters from Sexual Offences Act, 2012 (POCSO) and under the Juvenile Justice (Care and Protection of Children) Act, 2015.
- In-camera proceedings as defined under Section 327 of the Code of Criminal Procedure, 1973 (CrPC) or Section 153 B of the Code of Civil Procedure, 1908 (CPC).
- Matters where the Bench is of the view, for reasons to be recorded in writing that publication would be antithetical to the administration of justice.
- Cases, which within the opinion of the Bench may provoke enmity amongst communities likely to lead to a breach of law and order.
- Recording of evidence, including cross-examination.
- Privileged communications between the parties and their advocates; cases where a claim of privilege is accepted by the Court; and non-public discussions between advocates.
- The opposite matter during which a specific direction is issued by the Bench or the magistrate.
- These exclusions are backed and recognized by the Supreme Court through its finding in *Supt. and Remembrance of Legal Affairs v. Satyen Bhowmick*<sup>34</sup> and *Naresh Shridhar Mirajkar v. State of Maharashtra*<sup>35</sup>, which hold that some Cases may occur where the requirement of the administration of justice itself may make it necessary for the court to hold a trial in camera restricting the public trials;

#### **D. Method of Procedural Recording**

- Cameras shall not audio-video record the media persons and so the visitors present during the Proceedings. The following will ordinarily not be Live-streamed or saved within the Archival Data or transcribed:
- Discussions between/amongst the judges on the Bench.
- Instructions given by a judge to the manager staff during the Proceedings.

---

<sup>34</sup> *Supt. and Remembrance of Legal Affairs v. Satyen Bhowmick* (1967) AIR SC 1: (1966) 3 SCR 744.

<sup>35</sup> *Naresh Shridhar Mirajkar v. State of Maharashtra* (1975) 4 SCC 428.

- Any communication/message/document given by the Court Master/Reader to the Bench.
- Documents given to the judge during the Proceedings.
- Notes taken down by the judge during the Proceedings.
- Notes made by an advocate either on paper or in electronic form, for assistance, while making submissions before the Bench.
- Communication between the advocate and client, inter-se the advocates and communications which isn't a submission exchanged between the advocate and therefore the Court.<sup>36</sup>

### **E. Access and Storage**

The Recordings are archived. Recordings is also uploaded, wholly or partly, on the Courts' website or made available on other digital platforms, as directed by the Court. Access to copies of the Recordings not uploaded is going to be sanctioned by the Designated Officer, who will act as per law. An application for copies of Recordings shall be made within the form prescribed in Schedule III. The Archived Data should ordinarily be retained by the Court for a minimum of six months, subject to special directions issued by the concerned Bench in an exceedingly particular case. The jurist may issue practice directions regarding the cases and also the period that archived data are preserved.

### **F. Transmission of Hearings and Recordings**

#### **i. General Precaution**

Personal information like date of birth of parties, home address, card number, checking account information, and therefore the personal information of related parties, like close relatives, witnesses and other participants, are deleted or muted during Live-streaming. Inter alia, anyone of the masking techniques, as provided in Rule 6.8, could also be adopted. However, such Proceedings are going to be preserved within the Archival Data.

### **G. Relay of Proceedings**

There shall be a delay of ten minutes in streaming, which can be changed as per the direction of the Court. Subject to limitations contained in these Rules, the

---

<sup>36</sup>Court Proceedings and Live Streaming During Covid 19 Outbreak: Phenomenon (Jul. 5, 2021, 11 AM) <http://www.barandbench.com>.

Live-stream shall commence as soon because the Bench assembles and instructs the Court staff to start the Proceedings and shall end when the Bench signals its conclusion for the day. The Live-streaming shall be dispensed from the Designated Venue as decided by the Bench.

#### **H. Relay of Recordings**

The content of the Recording is vetted and shall be posted, usually within three days of the conclusion of the proceedings. The identical shall be posted on the Courts' website or made available on such digital platforms, as directed by the Court.

#### **I. Disclaimers, Prohibitions and Restrictions**

##### ***Disclaimers***

The daily cause list published on the web site of the Court shall contain requisite information and disclaimer regarding Live-streaming. The Archival Data shall not constitute the official record of the Court Proceedings unless otherwise directed by the Bench.

The Rules also prohibits and restricts on usage of the Recording or Live –stream that:

- i. No person/entity (including print and electronic media and social media platforms) apart from an authorized person/entity shall record, share and/or disseminate Live-streamed Proceedings or Archival Data. This provision shall also apply to all or any messaging applications. Any person/entity acting contrary to the current provision is going to be prosecuted as per law. The Court shall have the exclusive copyright within the Recordings and Archival Data. Any unauthorized usage of the Live-stream are going to be punishable as an offence under the Indian Copyright Act, 1957, Information Technology Act,2000, and other provisions of law, including the law of Contempt.
- ii. Any party/ litigant-in-person accessing the Live-stream are bound by these Rules.

- iii. The Live-stream shall not, without the prior written authorization of the Court, be reproduced, transmitted, uploaded, posted, modified, published, or re-published in any form.
- iv. The employment of authorized recordings in their original form is also permitted by the Court, inter-alia to disseminate news and for training, academic and educational purposes. Authorized recordings handed over for the aforesaid purposes shall not be further edited or processed. Such Recordings won't be used for commercial, promotional purposes or advertising in any form.
- v. No person shall use a Recording Device for recording or for transcribing the proceedings, aside from those authorized by the Court.

Communication Device or a Recording Device shall not be used to disturb Proceedings in an exceedingly manner that will cause concern to a witness or other participants within the proceedings or allow an individual who isn't a participant to receive information about the proceeding or the hearing to which the person is not otherwise entitled. During Proceedings, all personnel shall follow the instructions of the Presiding Judge, adheres to courtroom etiquettes and discipline, and shall not engage within the following actions- audio and/or video, taking screenshots or using mobile communication tools to relay the Proceedings. Any person found of Communication Device or a Recording Device during the proceedings will lead to prosecution as per law. Additionally; the Bench may direct seizure of the Communication Device or Recording Device.

#### **J. Transcription and Access**

Only when the Court orders it, transcripts of recordings will be provided. The transcripts may be translated into other languages that are on the schedule. Differently able people will be able to access recordings that have been posted.

#### **K. Dedicated room(s) for live-streaming**

In order to decongest the court rooms, dedicated room(s) for viewing the live stream is also made available within the Court Premises. Access shall run to law researchers, staff, litigants, academicians, and media personnel authorized to enter the Court Premises upon receipt of necessary permissions/approvals. Appropriate arrangements shall be made to enable viewing of Live-streams from

multiple Benches within this/these room(s). Special arrangements are made for differently-able persons.

#### **L. Power to Relax**

The state supreme court may, if satisfied that the operation of any Rule is causing undue hardship, by order, dispense with or relax the necessities of that Rule to such extent and subject to such conditions as is also stipulated to accommodate the case in a just and equitable manner.

#### **M. Reference to Words and Expressions**

The meaning of words and terms used but not specified in these Rules shall be determined by the legislation in force at the time, including the Information Technology Act 2000, the CPC, the CrPC, the Indian Evidence Act, 1872, and the General Clauses Act, 1897.

#### **N. Provisions for Remaining Assets**

The Court will consider matters for which there is no specific provision in these Rules in accordance with the concept of serving the interest of justice.

### **V. LIVE STREAMING AND RECORDING OF COURT PROCEEDINGS – WHAT THE JUDICIARY HAS TO SAY**

*Swapnil Tripathi v. Supreme Court of India*<sup>37</sup>, in an RTI response, the Madras tribunal has stated that it's not taken steps to implement the Supreme Court's directions regarding the live-stream of court proceedings. The Court said that the virtual hearings are being conducted through Microsoft Teams platform. It's further stated within the reply that as per the video conferencing rules, except in proceedings which are ordered to be held in-camera, the Court shall endeavor to produce public viewing subject to avail ability of the bandwidth. This response has come on the RTI application filed by Saurav Das, an independent journalist who sought a response on what actions are taken to measure stream the Court proceedings pursuant to the Supreme Court's directions within the case of Swapnil

---

<sup>37</sup> Swapnil Tripathi v. Supreme Court of India AIR (2018) SC 55.

Tripathi v. Supreme Court of India, whereby the Supreme Court had decided to live-stream Court proceedings within the larger public interest.

*Nippur Thapliyal and Ors v. State of Madhya Pradesh & ors.*<sup>38</sup> during this case the Madhya Pradesh High Court informed the tribunal Judicial that web link to look at court proceedings held via video conference are going to be made available online soon. This writ was filed on behalf of the journalist, Registrar General of the judicature bringing on the record minutes of E-Committee meeting of tribunal, stated that the E Committee has resolved to supply live web links of the hearings happening through virtual mode and video conferencing to any or all the journalists and people aspiring to access them. The state supreme court's response came on plea moved by four journalists seeking better access to the High Court proceedings. The court administration said that it's approved virtual streaming of court proceedings through a link to be made available on the Madhya Pradesh tribunal website.

*In Areeb Uddin Ahmed v. Allahabad High Court, Public Interest Litigation*<sup>39</sup> and *Nupur Thapliyal v. High Court of Madhya Pradesh.*,<sup>40</sup> the journalists of online legal media platforms like Bar and Bench and Live Law had approached High Courts for being permitted to access court proceedings on real time basis claiming the right of journalists and media to live report the court proceedings and observations.

### **A. Challenges Faced by the Public**

Globally, India was ranked 89th out of 149 countries/regions by average internet connection speed. Over 60 per cent mobile users in India are facing network problems while accessing internet across locations. All these lead to chaos while performing online proceedings as well as when the general public attends them. There has been an ongoing problem in rural areas of mobile network connectivity.

---

<sup>38</sup>*Nippur Thapliyal and Ors. v. State of Madhya Pradesh and Ors.* AIR (1995) SC 56.

<sup>39</sup>*Areeb Uddin Ahmed v. Allahabad High Court, Public Interest Litigation* (PIL No. 865 of 2021).

<sup>40</sup>*Nupur Thapliyal v. High Court of Madhya Pradesh* (W.P. No. 9669 of 2021) (Principal Seat at Jabalpur).

The villages are remote, backward because of lack of facilities and poor connectivity. The reason for this is:

1. Connecting when "roaming" can be a struggle. If your flight has just landed, several hundred devices power on and try to connect to an overloaded network. On a train, users find it difficult to hold a conversation even when passing through areas with moderate cellular coverage. It's the same on inter-state highways.
2. Lack internet tower in rural areas. Telecom towers, with their antennae, are the ubiquitous symbol of mobile telephony in India, yet there are too few of them with just 425,000 for the entire country.
3. Mobile data is patchy in India. 3G isn't everywhere, but even where you get a strong 3G signal, you might find no data activity. This is a problem for a country with 240 million mobile internet subscribers - that's 92% of its total internet subscriber base.
4. The pleader and the other stake holder lack with the skills required to access the court proceeding.
5. These are the reasons which make it difficult for general public in attending online proceedings.

## **B. Challenges Faced by the Court**

1. The issue of access: There a number of litigants and advocates who lack internet connectivity and requisite infrastructure and means to participate in virtual hearings and therefore the process. This has serious implications. The plain one being that an outsized chunk of our citizenry is liable to being excluded from the method of justice delivery thanks to factors beyond their control. Moreover; such issues are likely to hit lower courts the worst. And this may have ramifications of its own since district or subordinate courts are the primary port of require an unlimited majority. Most virtual court proceedings in India currently happen using third party software/platforms which pose a security hazard and are at risk of hacking and misuse. Exclusive software for India's judicature to use and to handle virtual court hearings must be developed.
2. The degree of comfort: A highly underrated but equally consequential factor is whether or not everyone, whether or not access to reliable internet connectivity is universal, is comfortable and well versed with the new tools

and mediums of justice delivery. It's interesting that the Secretary, Department of Justice stated that big, well-to-do law firms and advocates in urban areas would face no issues as compared to those participants in rural areas given the digital divide.

3. The concept of open courts: It might threaten the constitutionality of Court proceedings and undermine the importance of Rule of law which forms part of the essential structure of the Constitution.
4. The lack of technical manpower in Courts, cyber security and susceptible to abuses including issues of privacy are the main concerns of effective implementation.

### **C. Possible Remedies**

The problems could be solved by setting up strong network towers in both rural and urban areas. There by a good amount of people access online proceedings. Telecom companies like Jio, Airtel, etc. should collectively take an initiative. Company like Jio has taken the initiative of providing fiber route wires in rural areas for fast network connection and is feasible for public at less cost. At the same time Airtel is on mission of establishing tower for providing internet in all rural areas. Setting up internet service center or internet café in all important points of every rural and urban area can help people in accessing the internet this also help the law graduates and law students who cannot physically access the court can access virtually.

The Ministry of Communications should mean the implementation of the National Broadband Mission, with the aim of providing reliable, and consistent connectivity infrastructure to any or all districts and lower courts across India. The judiciary considers solutions like mobile video conferencing facilities to permit for meaningful participation from those living in remote geographies. Training programs are concerned in each of the 25 High Courts. Twenty-five master trainers extended training to 461 trainers within the districts, who successively have now been tasked with training others within the lower courts and within the remaining districts. Another suggestion is that the Bar Council of India should introduce a computer course module within the syllabus of three/five-year law programs so on skill students in a number of these aspects as an element of their college education and training. The matter associated with the thought of open court will be resolved by recording the proceedings and making

it easily accessible. Along with the public and the lawyers to whom we called representatives of the Bar should also be trained in regards the author recommends to Bar Council of India to introduce computer course as one of the subjects in law courses to get trained in handling computers and get adopted to technological world. To tackle with the concerns relating to data privacy and data security the Ministry of Electronics and Information Technology develop a new platform for judicial system in India

## **IX. CONCLUSION**

The live streaming of proceedings within the Court is the large interest in order that there is often transparency within the justice which is given by the Court. The Court has also issued some guidelines to balance the interest between the administration of Justice and therefore the decorum of the Court. The Court has also allowed the interns to attend the Court proceedings so they'll learn every procedure of the Court. Before we predict of cameras in courts, more fundamental reforms must be affected. These include greater reliance on written briefs and also the significance accorded to them, page limits for briefs (and, perhaps, also for judgments), points in time for oral arguments (and for judges to issue judgments), and a greater emphasis on preparation prior to. The judiciary must also employ a press officer to liaise with the media, and issue simultaneously one- or two-page summaries of its judgments to facilitate greater public understanding. The celebrated saying of Justice Louis Brandeis, "sunlight is the best disinfectant", Justice Chandrachud observed that live streaming makes Judges conscious in their conduct; fair in their approach towards the counsels and those listening to them, which transparency is bound to bode well for the institution in the longer run. It also makes each and every participant in the court extremely cautious and cognizant of whatever he is arguing before the court of law.