

CHAPTER X: VIDEO CONFERENCING

107. General Principles Governing Video Conferencing:

- (1) Video conferencing facilities may be used at all stages of judicial proceedings before the Court.
- (2) The courtesies and protocols applicable to a physical court shall apply to these virtual proceedings. The protocol provided in Schedule I shall be adhered to for proceedings conducted by way of video conferencing.
- (3) All relevant statutory provisions applicable to judicial proceedings including the Code of Civil Procedure, Bharatiya Nagarik Suraksha Sanhita, 2023, Contempt of Courts Act, 1971, Bharatiya Sakshya Adhiniyam, 2023, and Information Technology Act, 2000 (abbreviated hereafter as the IT Act), shall apply to proceedings conducted by video conferencing.
- (4) Subject to maintaining independence, impartiality and credibility of judicial proceedings, and subject to such directions as the High Court may issue, the Court may adopt such technological advances as may become available for video conferencing from time to time.
- (5) The Rules as applicable to a Court shall *mutatis mutandis* apply to a Commissioner appointed by the Court to record evidence and to an inquiry officer conducting an inquiry.
- (6) There shall be no unauthorised recording of the proceedings by any person or entity.
- (7) The required person defined in Rule 2(56) shall provide identity proof as recognised by the Government of India/State Government/Union Territory to the Court point coordinator via personal email. In case identity proof is not readily available, the person concerned shall furnish the following personal details: name, parentage and permanent address, as also, temporary address if any.

108. Remote Point Coordinator:

- (1) There shall be a coordinator both at the court point and at the remote point from which any required person is to be examined or heard. A coordinator may be required at the remote point only when a witness or a person accused of an offence is to be examined.
- (2) The coordinator list for different remote points is provided in the Practice Direction 26.

- (3) When a required person is at any of the remote points, and video conferencing facilities are not available at any of these places, the Court will formally request the District Judge, in whose jurisdiction the remote point is situated, to appoint a coordinator for, and to provide a video conferencing facility from proximate and suitable court premises.
- (4) The coordinators at both the court point and remote point shall ensure that the recommended requirements set out in Rule 113 are complied with, so that the proceedings are conducted seamlessly.
- (5) The coordinator at the remote point shall ensure that:
 - (a) All Advocates and/or required persons scheduled to appear in a particular proceeding are ready at the remote point designated for video conferencing at least 30 minutes before the scheduled time;
 - (b) No unauthorised recording device is used;
 - (c) No unauthorised person enters the video conference room when the video conference is in progress;
 - (d) The person being examined is not prompted, tutored, coaxed, induced or coerced in any manner by any person and that the person being examined does not refer to any document, script or device without the permission of the Court during the course of examination.

109. Court to give Sufficient Notice:

- (1) Where the witness to be examined requests for video conferencing or if it is otherwise expedient to do so, the Court shall give sufficient notice in advance, setting out the schedule of video conferencing. In the appropriate cases, the Court may transmit non-editable digital scanned copies of all or any part of the record of the proceedings to the official email account of the coordinator of the concerned remote point, designated in accordance with Practice Direction 26.
- (2) Before the scheduled video conferencing date, the coordinator at the court point shall ensure that the coordinator at the remote point receives certified copies, printouts or a soft copy of the non-editable scanned copies of all or any part of the record of proceedings which may be required for recording statements or evidence, or for reference. However, these shall be permitted to be used by the required person only with the permission of the Court.
- (3) Whenever required, the Court shall order the coordinator at the remote point or at the court point to provide:
 - (a) A translator in case the person to be examined is not conversant with the official language of the Court.

(b) An expert in sign languages in case the person to be examined is impaired in speech and/or hearing.

(c) An interpreter or a special educator, as the case may be, in case a person to be examined is differently abled, either temporarily or permanently.

110. Application for Appearance, Evidence and Submission by Video Conferencing:

- (1) Any party to the proceeding or witness, save and except where proceedings are initiated at the instance of the Court, may move a request for video conferencing. A party or witness seeking a video conferencing proceeding shall do so by making a request in the prescribed format.
- (2) Any proposal to move a request for video conferencing should first be discussed with the other party or parties to the proceeding, except where it is not possible or inappropriate, for example, in cases such as urgent applications.
- (3) On the receipt of such a request and upon hearing all concerned persons, the Court will pass an appropriate order, after ascertaining that the application is not filed with an intention to impede a fair trial or to delay the proceedings.
- (4) While allowing a request for video conferencing, the Court may also fix the schedule for scheduling the video conferencing hearing.
- (5) In case the video conferencing event is convened for making oral submissions, the order may require the Advocate to submit written arguments and precedents, if any, in advance on the official email address of the concerned Court.
- (6) Costs, if directed to be paid, shall be deposited within the prescribed time, commencing from the date on which the order convening proceedings through video conferencing is received.

111. Service of Summons: Summons issued to a witness who is to be examined through video conferencing shall mention the date, time and venue of the concerned remote point and shall direct the witness to attend in person along with proof of identity or an affidavit to that effect. The existing Rules regarding service of summons and the consequences for non-attendance, as provided in the Code of Civil Procedure and Bharatiya Nagarik Suraksha Sanhita, 2023 shall apply with respect to service of summons for proceedings conducted by video conferencing.

112. Examination of Persons:

- (1) Any person being examined, including a witness, shall, before being examined through video conferencing, produce and file proof of identity by submitting an identity document issued or duly recognised by the Government of India, State Government, Union Territory. In the absence of such a document, they shall file an affidavit attested by any of the authorities referred to in Section 139 of the Code of Civil Procedure or Section 333 of the Bharatiya Nagarik Suraksha Sanhita, as the case may be. The affidavit will, inter alia, state that the person, who is shown to be the party to the proceedings or as a witness is the same person who is to depose at the virtual hearing. A copy of the proof of identity or affidavit, as the case may be, will be made available to the opposite party.
- (2) The person being examined will ordinarily be examined during the working hours of the Court or at such time as the Court may deem fit. The oath will be administered to the person being examined by the coordinator at the court point.
- (3) Where the person being examined or the accused is in custody, the statement or, as the case may be, the testimony, may be recorded through video conferencing. The Court shall provide adequate opportunity to the person in custody to consult in privacy with their Advocate before, during and after the video conferencing.
- (4) Subject to the provisions for examination of witnesses contained in the Bharatiya Sakshya Adhiniyam, before the examination of the witness, the documents, if any, sought to be relied upon shall be transmitted by the applicant to the witness, so that the witness is familiar with the said documents. The applicant will file an acknowledgment with the Court in this regard.
- (5) If a person is examined with reference to a particular document, then the summons to such a person must be accompanied by a duly authenticated copy of the document. The original document should be exhibited at the court point in accordance with the deposition of the concerned person being examined.
- (6) The Court shall be at liberty to record in writing the demeanour of the person being examined.
- (7) The Court shall note the objections raised during the deposition of the person being examined and rule on them.
- (8) The Court shall obtain the signature of the person being examined on the transcript once the examination is concluded. The signed transcript will form part of the record of the judicial proceedings. The signature on the transcript of the person being examined shall be obtained in either of the following ways:

- (a) If digital signatures are available at both the concerned court point and remote point, the soft copy of the transcript digitally signed by the Judge at the court point shall be sent by the official email ID to the remote point. At the remote point, a print out of the same will be taken and signed by the person being examined. A scanned copy of the transcript digitally signed by the coordinator at the remote point shall be transmitted to the official email address of the court point. The hard copy of the signed transcript shall be dispatched after the testimony is over, preferably within ____ days, by the coordinator at the remote point to the court point by a recognised courier/registered speed post.
- (b) If digital signatures are not available, the printout of the transcript shall be signed by the Judge and the representative of the parties, if any, at the court point and shall be sent in non-editable scanned format to the official email account of the remote point. At the remote point, a printout of the same will be taken and signed by the person examined and countersigned by the coordinator at the remote point. The coordinator of the remote point shall send a non-editable scanned format of the transcript so signed to the official email address of the court point, where such document shall be made a part of the judicial record.
- (9) An audio-visual recording of the examination of the person shall be preserved. An encrypted master copy with hash value shall be retained as a part of the record.
- (10) The Court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect the privacy of the person examined, bearing in mind aspects such as age, gender, physical condition and recognised customs and practices.
- (11) The coordinator at the remote point shall ensure that no person is present at the remote point, apart from the person being examined and those persons whose presence is deemed administratively necessary by the coordinator for the proceedings to continue.
- (12) The Court may also impose such other conditions as are necessary for the effective recording of the examination.
- (13) The examination shall, as far as practicable, proceed without interruption or the grant of unnecessary adjournments. However, the Court or the Commissioner as the case may be, will be at liberty to determine whether an adjournment should be granted, and if so, on what terms.
- (14) The Court shall be guided by the provisions of the Code of Civil Procedure and Chapter XXV, Part B of the Bharatiya Nagarik Suraksha Sanhita, 2023, the Bharatiya Sakshya Adhiniyam, and the IT Act while examining a person through video conferencing.

- (15) Where a required person is not capable of reaching the court point or the remote point due to sickness or physical infirmity, or the presence of the required person cannot be secured without undue delay or expense, the Court may authorise the conduct of video conferencing from the place at which such person is located. In such circumstances, the Court may direct the use of portable video conferencing systems. Authority in this behalf may be given to the concerned coordinator and/or any person deemed fit by the Court.
- (16) Subject to such orders as the Court may pass, in case any party or person authorised by the party wants to be physically present at the remote point at the time of recording of the testimony, such person shall make their own arrangement for appearance/representation at the remote point.

113. Exhibiting or Showing Documents to Witness or Accused at a Remote Point:

If in the course of examination of a person at a remote point by video conferencing, it is necessary to show a document to the person, the Court may permit the document to be shown in the following manner:

- (1) If the document is at the court point, by transmitting a copy or image of the document to the remote point electronically, including through a document visualiser; or
- (2) If the document is at the remote point, by showing it to the person and transmitting a copy/image of the same to the court point electronically, including through a document visualiser. The hard copy of the document countersigned by the witness and the coordinator at the remote point shall be dispatched thereafter to the court point via an authorised courier/registered speed post.

114. Ensuring Seamless Video Conferencing:

- (1) The Advocate or required person, shall address the Court by video conferencing from a specified remote point on the date and time specified in the order issued by the Court. The presence of the coordinator will not be necessary at the remote point where arguments are to be addressed by an Advocate before the Court.
- (2) If the proceedings are carried out from any of the remote point(s) described in the Rules above, the coordinator at such remote point shall ensure compliance with all technical requirements. However, if the proceedings are conducted from a remote point other than these locations, such as an Advocate's office, the coordinator at the court point shall ensure compliance with all technical requirements for conducting video conferencing at both the court point and the remote point.

- (3) The coordinator at the court point shall be in contact with the concerned Advocate or the required person, and shall guide them regarding the fulfilment of technical and other requirements for executing a successful hearing through video conferencing. Any problems faced by such remote users shall be resolved by the court point coordinator.
- (4) The coordinator at the court point shall ensure that any document and audio-visual files, emailed by the remote user, are duly received at the court point.
- (5) The coordinator at the court point shall also conduct a trial video conferencing, preferably 30 minutes prior to the scheduled video conferencing proceeding in order to ensure that all the technical systems are in working condition, at both the court point and the remote point.
- (6) At the scheduled time, the coordinator at the court point shall connect the remote user to the court.
- (7) On completion of the video conferencing proceeding, the Court shall mention in the order sheet the time and duration of the proceeding, the software used (in case the software used is not the designated video conferencing software), the issue(s) on which the Court was addressed and the documents if any that were produced and transmitted online. In case a digital recording is tendered, the Court shall record its duration in the order sheet along with all other requisite details.
- (8) The Court shall also record its satisfaction as to clarity, sound and connectivity for both court users and remote users.
- (9) On the completion of video conferencing, if a remote user is of the opinion that they were prejudiced due to poor video and/or audio quality, they shall immediately inform the coordinator at the court point, who shall communicate this information to the Court without any delay. The Court shall consider the grievance, and if it finds substance in it, may declare the hearing to be incomplete and the parties may be asked to re-connect or appear in person in Court.

115. General Procedure:

- (1) The procedure set out hereafter in this chapter is without prejudice to the procedure indicated elsewhere in these Rules qua specific instances in which proceedings are conducted via video conferencing.
- (2) The coordinator at the court point shall ensure that video conferencing is conducted only through a designated video conferencing software. However, in the event of a technical glitch during a given proceeding, the concerned Court may, for reasons to be recorded, permit the use of a software other than the designated video conferencing software for video conferencing in that particular proceeding.

- (3) The identity of the person to be examined shall be confirmed by the Court with the assistance of the coordinator at the remote point at the time of recording of the evidence and the same must be recorded in the order sheet of the Court.
- (4) In civil cases, parties requesting for a person to be examined by video conferencing shall confirm to the Court, the location of the person, the willingness of such person to be examined through video conferencing and the availability of technical facilities for video conferencing at the agreed upon time and place.
- (5) In criminal cases, where the person to be examined is a prosecution witness or a Court witness, or where a person to be examined is a defence witness, the counsel for the prosecution or defence counsel, as the case maybe, shall confirm to the Court the location of the person, their willingness to be examined by video conferencing and the time, place and technical facility for such video conferencing
- (6) In case the person to be examined is an accused, the prosecution will confirm the location of the accused at the remote point.
- (7) Video conferencing shall ordinarily take place during the Court hours. However, the Court may pass suitable directions concerning the timing and schedule of video conferencing as the circumstances may warrant.
- (8) If the accused is in custody and not present at the court point, the Court will order a multi-point video conference between itself, the witness and the accused in custody to facilitate recording of the statement of the witness (including medical or other expert). The Court shall ensure that the defence of the accused is not prejudiced in any manner and that the safeguards contained in these Rules are observed.
- (9) The coordinator at the remote point shall be paid such an amount as honorarium as may be directed by the Court in consultation with the parties.

116. Costs of Video Conferencing:

- (1) The Court may take into consideration the following circumstances when determining and/or apportioning the costs of video conferencing:
 - (a) In criminal cases, the expenses of the video conferencing facility, including expenses involved in preparing soft copies/certified copies of the court record and transmitting the same to the coordinator at the remote point, and the fee payable to translator/ interpreter/special educator, as the case may be and to the coordinator at the remote point, shall be borne by such party as directed by the Court
 - (b) In civil cases, generally, the party making the request for recording evidence, through video conferencing shall bear the expenses arising out of it.

- (2) Besides the above, the Court may also make an order as to expenses it considers appropriate, taking into account Rules/instructions regarding payment of expenses to the complainant and witnesses, as may be prevalent from time to time.
- (3) It shall be open to the Court to waive the costs as warranted in a given situation.

117. Access to Legal Aid Clinics/Camps/Lok Adalats/Jail Adalats:

- (1) In conformity with the provisions of the Legal Services Authorities Act, 1987 and the laws in force, in proceedings related to legal aid clinics, camps, lok adalats or jail adalats, any person who at the remote point is in prison may be examined by the Chairman / Secretary of the District Legal Service Authority or Taluka Legal Service Committee or Members of Lok Adalats, before passing any award or orders in accordance with law.
- (2) Such award or order shall have the same force as if it was passed by the regular Lok Adalat or Jail Adalat.
- (3) A copy of the award or order and the record of proceedings shall be sent to the remote point.

118. Allowing Persons who are not Parties to the Case to View the Proceedings:

Where, for any reason, a person unconnected with the case is present at the remote point, that person shall be identified by the coordinator at the remote point at the start of the proceedings, and the purpose of the presence of that person shall be conveyed to the Court. Such a person shall continue to remain present only if ordered so by the Court.

119. Power to Relax: The High Court may, if satisfied that the operation of any Rule is causing undue hardship, by an order dispense with or relax the requirements of that Rule to such extent and subject to such conditions, as may be stipulated to deal with the case in a just and equitable manner.

120. Residual Provisions: Matters with respect to which no express provision has been made in these Rules, shall be decided by the Court consistent with the principle of furthering the interests of justice.