



HIGH COURT OF MADHYA PRADESH

PRINCIPAL SEAT – JABALPUR

:: MEMO ::

No. Reg(IT)(SA)/2018/ 659

Jabalpur, Dated: 26 APR 2018

To,

The District and Sessions Judge,

All District and Sessions Courts in the State of M.P.

District: _____

- Sub:-** Regarding to adopt Video Conferencing System for recording of evidence , remand and other related purposes.
- Ref:-** Purchase Order No. Reg (IT) (SA)/2017/1616, dated: 21-12-2017 and Contract dated: 19th December, 2017 and this Registry Memo No. Reg (IT) (SA)/2018/04, dated: 03-01-2018.

Hon'ble Supreme Court of India in a judgment reported as (2003) 4 Supreme Court Cases 601 - State of Maharashtra V/s Dr. Praful B. Desai held that recording of evidence by video-conferencing satisfies the object of that evidence to be recorded in the presence of the accused as the accused and his pleader can see the witness as clearly as if the witness was actually sitting before them. In fact the accused may be able to see the witness better than he may have been able to if he was sitting in the dock in a crowded courtroom. They can observe his or her demeanour. In fact the facility to playback would enable better observation of demeanour. They can hear and rehear the deposition of the witness. The accused would be able to instruct his pleader immediately and thus cross-examination of the witness is as effective, if not better. The facility of playback would give an added advantage whilst cross-examining the witness. The witness can be confronted with documents or other material or statement in the same manner as if he/she was in court. All these objects would be fully met when evidence is recorded by video-conferencing. Thus no prejudice, of whatsoever nature, is caused to the accused. Of course, as set out hereinafter, evidence by video-conferencing has to be on some conditions.

Thereafter the video-conferencing units have been installed/ going to be installed in all Courts of CJM/ ACJM's and above, Family Courts, Jails and Hospitals as a method for recording evidence to give effect to the said orders.



HIGH COURT OF MADHYA PRADESH

PRINCIPAL SEAT – JABALPUR

:: MEMO ::

No. Reg(IT)(SA)/2018/

Jabalpur, Dated:-.....

Now, it has been decided to make optimum use of facility to record evidence of Doctors, Investigating officers and other witnesses by video-conferencing to facilitate early conclusions of the trials and also to avoid the movement of under trails from the Jails to court to ensure their safety and utilization of guard force to some other core area of policing.

Now, inform initially daily as to in how many cases evidence have been recorded by use of video-conferencing and in how many cases the remand work has been handled by video-conferencing.

The project is of utmost importance and in the interest of administration of justice for expeditious decisions in the cases.

It is also to further communicate to expedite the matter regarding the installation of VC system at Courts/ Sub Jails, where the Video Conferencing equipment are yet to be installed by coordinating with the respective agencies.

SD/

 **REGISTRAR GENERAL**

Encl: As above (Video Conferencing Guidelines)

PREFATORY NOTE

Use of computers and communication technology is all pervasive now. Judicial proceedings should not be denied the advantages to be gained from the techniques and advances of science. Video conferencing by way of audio-video linkage is such advancement in technology which can ensure presence of a person at a remote location in Court without his physical presence. The use of this technology will advance speedy trial and curtail the requirement of adjournments on the basis of inability of a person to be physically present in Court.

These guidelines are intended to be supplemental to the Code of Civil Procedure, Code of Criminal Procedure, the Evidence Act and all Rules and guidelines issued in various judgments of the Supreme Court of India and High Court of Madhya Pradesh which are applicable to the proceedings of the civil and criminal courts and other enquiries.

These guidelines provide for the use of Video Conferencing in all matters including hearing on remands and bail applications, examination of witnesses, securing presence of accused, advancement of arguments at any stage and in all civil and criminal trials as well as departmental enquiries where a person required to be present or appear is located intrastate, interstate, or overseas.

**VIDEO CONFERENCING GUIDELINES ISSUED BY THE
HIGH COURT OF MADHYA PRADESH**

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 or the place where enquiring officer is sitting and the 'remote point' is the place where person required to be present or appear *via* video conference is located.
- 1.2 Person required to be present or appear includes a person whose deposition or statement is required to be recorded or in whose presence certain proceedings are to be recorded or an Advocate who intends to cross-examine a witness or any person who is required to make submissions before the Court or any other person who is permitted by the Court to appear through video conference.
- 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 relevant statutory provisions applicable to judicial proceedings including the provisions of the Information Technology Act, 2000 and the Indian Evidence Act, 1872 shall apply to the 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 person required to be present or appear is located intrastate, interstate, or overseas.
- 1.5 The guidelines applicable to a Court will *mutatis mutandis* apply to a Commissioner appointed by the Court to record the evidence and the enquiry officer conducting the enquiry. The reference to 'Court'

directing Video Conferencing includes the Enquiry Officer conducting the enquiry, unless the context otherwise requires.

2. Appearance by video conference

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

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, person nominated by the High Court shall be the co-ordinator at the court point.

3.3 In the District Courts, a person nominated by the High Court or the District Judge, shall be the co-ordinator at the court point as well as the remote point.

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

(i) Where the person required to be present or appear is overseas, the Court may specify the co-ordinator out of the following:-

(a) the official of Consulate/Embassy of India,

(b) duly certified Notary Public/Oath Commissioner,

(ii) Where the person required to be present or appear is in another State/U.T, any responsible official as may be nominated by the District Judge concerned.

(iii) Where the person required to be present or appear is in custody, the concerned Jail Superintendent or any other responsible official nominated by him.

- (iv) Where the person required to be present or appear 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 nominated by him.
- (v) Where the person required to be present or appear 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 nominated by him.
- (vi) Where the person required to be present or appear, is in custody or care of any other government organisation or institution, the Superintendent/Officer In-Charge of such organisation or institution or any other responsible official nominated by him.
- (vii) Where the person required to be present or appear is a government servant or working in any government organisation, the Head of the Office or any other responsible official nominated by him.
- (viii) Wherever co-ordinator is to be appointed at the remote point under clause 3.4 sub-clause (iii), (iv), (v), (vi) and (vii) and video conferencing facilities are not available in that Office, organisation or institution, the Court concerned will make formal request to District Judge concerned in whose jurisdiction the remote point is located to appoint a Co-ordinator and to provide facility of Video conferencing from Court premises of such remote location.
- (ix) 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 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 required to be present or appear is available and ready at the room earmarked for the video conference atleast 30 minutes before the scheduled time.
- (ii) No other recording device is permitted except the one installed in the video conferencing room.
- (iii) Entry into the video conference room is regulated.
- (iv) The person to be examined is not helped, prompted or tutored by any other person and is not referring to any document, script or device without the permission of the Court during his examination.

3.7 (i) Where the witness is to be examined through video conferencing or it is otherwise expedient to do so, the Court shall send sufficiently in advance of the scheduled video conference, non-editable digital scanned copies of all or any part of the record of the proceeding by email through NIC or any other Indian service provider to the co-ordinator at remote point.

(ii) It shall be ensured by the co-ordinator at the court point that the co-ordinator at the remote point has certified copies or print out of non-editable scanned copies of all or any part of record of proceeding in a sealed cover or the soft copy thereof sent by the Court sufficiently in advance of the scheduled video conference. But, the same shall be permitted to be utilised by the person to be present or appear, under permission of the Court.

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;
- (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
- (ii) Device ensuring uninterrupted power supply
- (iii) Device ensuring uninterrupted internet connectivity
- (iv) Video Camera
- (v) Microphones and speakers
- (vi) Display unit
- (vii) Printer
- (viii) Scanner including mobile scanner
- (ix) Comfortable sitting arrangements ensuring privacy
- (x) Adequate lighting
- (xi) Insulations as far as possible/proper acoustics

5. Cost of video conferencing

The court may make an order as to expenses, if any, in facilitating proceedings through video conferencing, as it considers appropriate

taking into account rules/instructions regarding payment of expenses to complainant and witnesses as may be prevalent from time to time.

6. Procedures generally

- 6.1 The identity of the person required to be present or appear shall be confirmed by the court with the assistance of the co-ordinator at remote point at the time of proceedings through video conferencing and a note to such identification shall be recorded by the concerned Court.
- 6.2 In civil cases, party requesting for presence or appearance of any person through video conferencing shall confirm to the Court his location, his willingness to be present or appear by video conferencing, place and facility of such video conferencing and a note to such confirmation shall be recorded by the concerned Court.
- 6.3 In criminal cases, where the person to be examined is a prosecution witness or court witness or a person is to make submission for prosecution, the prosecution and where person to be examined is a defence witness or a person is to make submission for defence, the defence counsel or the accused will confirm to the Court his location, his willingness to be present or appear by video conferencing, place and facility of such video conferencing.
- 6.4 In case person to be examined or appear is an accused, prosecution/defence counsel will confirm his location at remote point.
- 6.5 Video conference shall ordinarily take place during the court hours. However, the Court may pass suitable directions with regard to timings of the video conferencing as the circumstances may dictate.
- 6.6 The record of proceedings including transcription of statement shall

be prepared at the court point under supervision of the Court and accordingly authenticated as per existing rules of procedure.

- 6.7 If digital signatures are available at both points, the soft copy of transcript digitally signed by the presiding officer at the court point shall be sent by e-mail through NIC or any other Indian service provider to the remote point where printout of the same will be taken and signed by the deponent. Scanned copy of the statement digitally signed by co-ordinator at the remote point would be sent by e-mail to the court point. The hard copy would also be sent subsequently, preferably within three days by the co-ordinator at the remote point to the court point by recognised courier/post.
- 6.8 Where digital signatures are not available, the printout of the transcript shall be signed by the presiding officer and the representative of the parties, if any, at the Court point and shall be sent in non-editable scanned format by e-mail through NIC or any other Indian service provider to the remote point where printout of the same will be taken and signed by the deponent and counter signed by the co-ordinator at the remote point. Non-editable scanned format of the transcript so signed shall be sent by email to the Court point where printout of the same will be taken and shall be made part of the record. The hard copy would also be sent subsequently, preferably within three days by the co-ordinator at the remote point to the court point by recognised courier/post.
- 6.9 The audio-visual of the examination of witnesses through video conferencing shall be recorded at the court point. An encrypted master copy with hash value shall be retained in the court as a part of the record at a later stage as and when such facility is made available by the High Court.

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 his privacy keeping in mind his age, gender and physical condition.

- 6.10 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.
- 6.10 Where a person required to be present or appear is not capable of visiting court point or remote point due to any sickness or other physical infirmity, or whose presence can not be secured without undue delay or expense, the court may authorise any of its subordinate staff as coordinator to facilitate video conferencing from place of his convenience. Such staff or coordinator can be provided with portable video conferencing system including Laptop to facilitate video conferencing from such place.
- 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. Examination of Medical and other experts:

- 7.1 The examination of medical and other experts shall as far as practicable, be conducted through, video conferencing.
- 7.2 Whoever wishes to examine a medical or other expert in his favour shall disclose the current place of posting or practice of the concerned expert along with his email address and/or contact number.
- 7.3 The co-ordinator shall fix the time of the video conferencing in consultation with the Medical or other expert and the Court

concerned.

- 7.4 The soft copies of the MLC reports, PM reports and FSL reports digitally signed shall be made available over the server of High Court of Madhya Pradesh or the State Government and such expert can refer those documents whenever required. (As directed in *Amitabh Gupta Vs. State of M.P. & Ors., W.P. No.19147/2013, Order dated 26.02.2018*)
- 7.5 All documents which are not available over the server including query reports shall be made available to such experts well in advance by the Court through the co-ordinator at remote point.
- 7.6 If the documents to be proved by the Medical or other expert are in possession of a third person or party, a simultaneous direction would be issued by the Court requiring that person to make available the documents in the Court sufficiently before the time of recording of evidence of the medical or other expert through video conferencing;
- 7.7 In civil cases, the concerned Court will fix a date, before which the examination-in-chief will be furnished by the Medical Expert or other expert concerned, to the Court.
- 7.8 On the given time, the Court will organize two ways or three-ways video conferencing i.e. between Court, Medical Expert or other expert and the Central/District Jail, if the accused is in custody and not in Court to facilitate recording of the statement of the medical or other experts.
- 7.9 Until video conferencing facilities are established in Civil Hospitals, Private Hospitals, Medical Colleges, Forensic Science Laboratories and other related institutions, the medical or other experts may go to the District/Civil Court or any other Govt. organisation or undertaking where video conferencing facility is

available. The District Judge or Head of the Organisation or undertaking, as the case may be, would facilitate recording of evidence of medical or other experts by permitting them access to the VC rooms.

8. 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 the following manner:-

- (a) if the document is at the court point, by transmitting a copy of it to the remote point electronically including through a document visualizer and the copy so transmitted being then put to the person,
- (b) if the document is at the remote point, by putting it to the person and transmitting a copy of it to the court point electronically including through a document visualizer. The hard copy would also be sent subsequently to the court point by courier/mail.

9. Persons unconnected with the case

9.1 Third parties may be allowed to be present during video conferencing subject to orders to the contrary, if any, by the Court.

9.2 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 at the start of the proceedings and the purpose for his being present explained to the Court.

10. Conduct of proceedings

10.1 Establishment and disconnection of links between the court point and the remote point would be regulated by orders of the Court..

10.2 The Court shall satisfy itself that the person--required to be present or appear 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.

11. Cameras

11.1 The Court shall, at all times have the ability to control the camera view at remote point so that there is an unobstructed view of all the persons present in the room.

11.2 The Court shall have a clear image of each deponent to the extent possible so that the demeanour of such person may be observed.

12. 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.