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# **VIRTUAL COURT ROOM AND ACCESS TO JUSTICE DURING CORONAVIRUS PANDEMIC**

*Author –*

**Abhay Yadav**

Student (BBA. LL.B)

Fairfield Institute of Management and Technology

(Affiliated to Guru Gobind Singh Indraprastha University)

## **ABSTRACT**

Today, the whole world is fighting against the coronavirus pandemic and most of the countries are in the state of lockdown, maintaining social distancing and implementing curfews in different-different areas of the country to stop the spread of coronavirus. Lockdown, indeed proved to be one of the safest measures to stop the spread of this dangerous virus but at the same time, it is affecting our country in many ways like socially, economically, etc. In the whole pandemic scenario, the authorities have decided to put the lockdown in India as well and have shut down most of the industries like the manufacturing industry, film industry, businesses, factories, etc. But there are some things which cannot be shut down in any manner and courtrooms are one of them.

As we all know India is the second-largest population in the world, the crime rates are also very high in India. Around thousands of petitions being heard by high courts all over India on each day and it is quite evident that the justice system cannot be put on hold in any manner in India.

This paper will discuss the whole concept of the virtual courtroom, its pros and cons, its implication on our country, and its scope in the future.

**Keywords:** - virtual courtroom, coronavirus pandemic, justice, video conference.

## **INTRODUCTION**

As we all know the whole world is fighting against the problem of coronavirus pandemic and have imposed a situation of lockdown in the country. It has been so much trouble and problem in the area of justice to cope up with this lockdown. Thousands of petitions and million numbers of cases are pending before the court of law in India and the same number of fresh cases are filed every day all over India in different courts. The process of justice in any way cannot be put on hold because it is one of the most important areas in which any kind of delay cannot be considered. The judicial authorities during the pandemic have come up with the concept of virtual courtrooms in which people need not come in the courts for the cases and the process of trial and serving justice can be done by the way of video conferencing in which the proceedings will be done virtually.

The concept of virtual courtrooms was already in operation in many western states and it was also in operation in India even before the lockdown and the global pandemic. But, in India, the virtual courtrooms were available in some specific situations only and it was not in very frequent use as the Indian courtrooms were lacking in the video technology and the concept. The global pandemic has made this concept very frequent and often during the state of lockdown in coronavirus and hence helping the justice system in abnormal ways in which no one had ever imagined.

Virtual courts and the concept of it is not a new thing to the courts as over the many years some states have improved the quality of virtual courts and some fought with it. The court in Alaska, Florida, New York, north-Dakota, and Texas are already turning the wheel of justice in moving direction through the concept of virtual court and the supreme court of the US has also announced that it will start the oral arguments in May 2020 through the same mode.

Before the 2020 and COVID-19, a video conferencing generally involved a judge and the prosecutor in a courtroom, and the defendant and the defense attorney in the conference room of the jail. But after the April or after the COVID-19, the scope of the virtual courts has expanded, and now nobody is required to be on the courtroom and the lawyers and the judges also do not require to be with the client. Now, the judge can join from the north side of the city and the counsel from the south through the virtual courtrooms. Every party to the case can join from any part of the city or country through the mode of video conferencing in the virtual courtroom.

The virtual courtroom has come up as a lifeline to the criminal justice system because, during the COVID-19, the court has extended all the date of hearings and also extended every petition that has filed by the people and those who are arrested in this period was not having any means to get bail from the court. But, due to the introduction of virtual courtrooms, the people can now file their bail application and can get instant relief from the court which is required.

### **WHY WE NEED THE SYSTEM OF VIRTUAL COURT**

Indian judicial system is one of the most heavily loaded judicial systems in the world and the cases in India take around years to get solved and it is also not sure that the person who is filing a case regarding a dispute can get a judgment and relief during his lifetime. Indian courts are flushed with heavy bundles of case files and if you are filing a criminal or property case then

you need to have some future generations because it is almost impossible that you would get justice in your lifetime.

As Indian courts are flushed heavily with the cases, virtual courtrooms are the need of the hour to get some revolution in the Indian judicial system and it's an array of hope that it will bring some speed in providing justice. The cases in India are pending in huge number because of a couple of reasons and one of the common reason is the adjournment which means the party to the dispute does not show up on the date of hearing which will lead the judge to give another date of hearing and this process causes a lot of delays. This reason can be eliminated through the concept of virtual courts as in this process, the physical appearance of the party is not required in the courtroom and they can present themselves through the mode of videoconferencing which will save the time of the court and the delay as well.

According to the data of “National judicial data grind”, 33million cases are pending before the district courts in India in the current time, and as we all are aware from the fact that the whole country is in a situation of lockdown and the Indian courts are already shut during this time, the process of providing justice cannot stop in any manner and the government has to resume the justice delivering system because if it's stop even for a month, it will create the mess on the courtrooms and will make the courtroom nothing but a room full of dusty case files. Virtual courtrooms are the only solution to provide justice and it has to be implemented in a very strict form with the proper resources in the court of law and once it is implemented properly it will benefit our judicial system not just during the time of the pandemic but in the future as well.

### **BENEFITS OF VIRTUAL COURTROOM**

As we are living in the 21st century and the whole world is covered around the technology, virtual courtrooms are not a complex issue to implement and to use. Around 40% of the Indian population use smartphones and have access to the internet and this number is expected to rise to 442 million by 2022. Technology in current time has made everything easy and smooth, today we can book a meal, cabs, tickets and everything by the use of technology, and everybody is having a quiet sense of using it so in this way it would not be difficult for India to shift from physical courtroom activities to virtual courtrooms.

The virtual courtrooms itself has some of the excellent benefits which can help to improve the Indian judicial system and the justice system in India and many countries for example; - US,

Canada are using it from a very long time and is now planning towards the complete switch to the virtual courtrooms. The benefits of virtual courtrooms are as follows: -

- **It will reduce the problem of COVID-19 spread.**

The virtual courtroom is one and the only solution by which the courts can continue the process of serving justice even in the time of this pandemic. Courtrooms in India always have thousands of people in it and it is almost become suffocated to even breathe inside the court in the regular days. The virtual courts are necessary for this time to stop the physical appearance of people inside the courts and to stop the spread of COVID-19.

- **It will save cost, energy, manpower, and will provide a smooth working condition.**

As the virtual courtrooms have a benefit of the appearance of the clients, judges, and advocates from the remote locations, it will save the traveling cost and nobody would need to visit the court in person and they can appear through the videoconferencing method. Some cases happen in distant locations and the client has to travel every now and then for the hearing which causes a lot of mental stress to the client in the whole process. The courtroom nowadays is also filled with many unnecessary workers that are not majorly required in the courtroom and the virtual courtrooms will also reduce the manpower that works inside the court and will provide smooth functioning of the trial with limited people.

- **Reduce the instances of adjournment**

Adjournments are something that becomes an everyday story inside the courtroom and this is one of the major problems of the delay in the justice system. Adjournment is something in which the client does not show up on the date of hearing and most of the time it happens intentionally to delay the matter and to cause mental, physical, and economic harm to the other party. Virtual courtrooms can remove the problem of adjournments as when the client is having the liberty to appear himself from anywhere from the world, he can't make an excuse for his absence in that situation.

- **One of the safest ways of proceeding in criminal cases**

There are numerous types of cases in which the criminal escapes from the police custody while the police are bringing him to the court. Bringing the criminal from the prison to the court is

very risky and most of the criminal escapes from the custody in this process. Around one year back, a criminal in the Saket court of Delhi escaped from the police custody and jumped from the 4th floor of the court and died. Recently, in the Vikas Dubey encounter case, the same thing happened in which Vikas Dubey died in the encounter while he was trying to escape from the police custody. By the way of the virtual courtroom, the criminal is not required to come before the court and he can be presented from the jail conference room through the way of video conferencing.

- **It will provide the speed in the justice delivering system**

As we all know the Indian courtrooms are flushed with the cases and we have almost 33million cases pending before the court, virtual courtrooms can help in solving the cases more speedily than the physical courtrooms and as in the normal courtroom one judge is allowed to hear a certain number of cases, in the virtual courtroom one judge will hear his matters of the day but if he is free then can hear the matters pending before the other court as well and in this way, the more number of cases will be heard which will also speed up the process of settling the matters.

## **DRAWBACKS OF VIRTUAL COURTROOM**

Everything that has an advantage, has disadvantages to it as well. There are always the two sides of a coin and that's the same case with virtual courtrooms. Virtual courtrooms and the idea of its implication all over India has many benefits and it truly will make a historic revolution in the Indian judicial system if implemented properly. But as every coin has two sides, virtual courtrooms also have some disadvantages with it.

The disadvantages or drawbacks of virtual courtrooms are discussed below: -

- **Legal problems related to the authenticity**

The concept of virtual courtrooms provides the provision of solving matters in the virtual world via video conferencing method and this method may provide some problems related to the authenticity of documents, witnesses, evidence that is produced during the video conferencing. As everything in the court of law will work on the documents produced and on evidence, the matters that will be produced before the judge in the virtual courtroom may be false, fabricated

or fake and there will be fewer means in the virtual platform to prove its authenticity which will create dishonesty of people in the justice system.

- **The huge cost of infrastructure involved in the making of virtual courtrooms**

As we all know that India is the 2nd most crowded country in the world, the crime rates in India are also on peak and to solve the cases we have 24 high courts and more than 600 district courts and subordinate judicial institutions in India. The cost of making the virtual courts in this amount will cost a huge amount of money which may become impossible to invest as the judicial sector gets only 0.1% of the budget which is lowest in the whole world.

- **Quality of justice may be affected**

Virtual courtrooms provide speedy justice which is a very good thing for India as we have 33million pending cases before the court, but it also raises the situation of quality of justice that would be provided. The judges take a lot of time to decide the matter as every matter is of prime priority for them and it is also not preferable for any judicial system to provide judgment in any case in a hurry. Recently, most of the lawyers of Delhi have a complaint regarding the virtual courtrooms that during the process of video conferencing it would become impossible for them to convince the judge regarding the urgency of the matter. Indeed, virtual courtrooms will provide speedy justice but the quality of justice may be affected.

- **Virtual courtrooms lack emotions**

Emotions are something on which the judges never decide the judgment of any case, but still, we all are humans and we cannot detach emotions from ourselves. During the matrimonial cases, like divorce, judicial separation, the motive of the courts is to reconnect the husband and wife and to save the marriage and this motive can only be done face to face. Parties to the marriage cannot reconnect on the virtual world as it lacks emotion and it may create a dent in the process of settlement.

- **Virtual courtrooms are not safe**

As the virtual courtrooms and the proceedings of the virtual courtrooms happen on the internet with the use of technology. There are huge chances that the websites and the applications on which these proceedings will carry on, may get hacked by some cybercriminals and if this kind of situation arises then it will be a huge disadvantage of this virtual platform because it will be a question of huge concern regarding the privacy of the person and confidentiality of the court.

- **The virtual court takes away social audit element of courts**

Apart from all the drawbacks, one of the major drawbacks that the virtual courtroom has is that it takes away the social audit elements of the courts. The virtual courtrooms give access to only limited people like judges, lawyers, and parties to the case and it does not amount to a public hearing which is one of the major drawbacks of this whole concept.

### **SCOPE OF VIRTUAL COURTROOM IN FUTURE**

The concept and the idea of the virtual courtroom existed in India since 2019 when the first virtual courtroom was made at the Tees-Hazari court, Delhi on 26th July 2019. And after that, the Punjab and Haryana high court have also launched the virtual court in Faridabad that deals with the challan and traffic violation related cases. The idea of the virtual courtroom was always in the pipeline and the To-do list of the Indian judicial authorities. But the lockdown has made the process of it fast and focused. As we discussed earlier the pros and cons of the virtual courtroom, it is pretty much clear from the points that how marvelous this concept is and how effectively and beautifully it will make a revolution in the whole judicial system in India. Every point that we have discussed in the advantages section will make it clear that the virtual courtrooms are in a strong need in India, not during the time of the pandemic, but in the future also.

As we have discussed earlier that everything has some positive points and some negative points and in the same way the virtual courtrooms also have some drawbacks in it but the drawbacks that the virtual courtrooms have, can be eliminated with the effective software and proper implementation and guidelines. The virtual courtrooms can easily make everything smooth, proper, and systematic and once it is implemented properly and throughout India, it will solve many problems. The virtual courtrooms can reduce the traveling, expenses, manpower, infrastructure cost, and the physical and mental stress of the people but the cost that we save from the physical courtroom can also be used in making the virtual courtrooms safe and smooth and also to make innovations in this area.

Many countries of the world namely the US, UK, China, Australia, etc. Have been using the virtual courtrooms for a very long time and they have found some of the best benefits of using

and switching from regular courts to the virtual courts. Many countries are using it without any problem and even in the present-day scenario, video conferencing is being used in many international arbitrations where the client is attending the proceedings while sitting on a different part of the world. If those proceedings can go smoothly then we surely can make a mechanism through which it would work perfectly in India as well.

## CONCLUSION AND SUGGESTIONS

In this whole paper, we have discussed many positive and negative points regarding the concept of the virtual courtroom and its implementation and why India needs this kind of platform for court proceedings. One thing that is crystal clear is that we need virtual courtrooms in India not only just to improve the justice system of this country but also to make the justice system more accountable and reliable to the people of India. Many countries from all over the world are using it and getting benefits from the functioning of the virtual courtrooms and most of the international arbitrations are also happening on this technological platform smoothly where parties concerned to the matter are representing themselves from the different part of the world so it is clear from this point that such kind of virtual platform can be implemented in India and can and serve its purpose efficiently.

No doubt, virtual courts, and its usage will give benefit the Indian judicial system and it has some of the drawbacks. But every system has some pros and cons related to it and that's the same case with virtual courtrooms as well. If the concept is implemented properly, this will surely assist in the administration of justice during the Covid-19 crises. However, the above drawbacks must be kept mind while implementing this system otherwise the whole system will backfire and cause unbearable damage.

The functioning of the court during the time of pandemic is the only solution that India has right now and no doubt it is working brilliantly till now. Some suggestions can help to make this platform more effective. **Firstly**, there must be a good internet connection and the courtrooms must be equipped with the best version of the software available in the market to make the proceedings smooth. **Secondly**, the court must develop their authentic applications on which such kind of proceedings can be done so that it will be safer and authentic. **Thirdly**, the software and the technologies available during the proceedings must have strong antivirus software so that nobody from the outside can hack it and **Lastly**, the Indian judicial authority

must do some kind of webinars in which they teach some basic etiquettes and usage of the virtual courtroom so that every advocate would make himself prepared before using it.