

VIRTUAL COURT SYSTEM IN BANGLADESH

Background

The courts of Bangladesh are experimenting with modern technologies in order to create a more effective judiciary. For digitalizing the judiciary, the law ministry has embarked on the e-judiciary project investing thousands of crores of taka. The recent introduction of virtual courts is an example of this. Due to Covid-19 pandemic, also known as the coronavirus pandemic, the government declared general holidays to stop the mass transmission of Covid-19 with effect from 25th March 2020. The Supreme Court of Bangladesh along with the sub-ordinate courts including tribunals were closed by the general order of the Hon'ble Chief Justice of Bangladesh to prevent the spread of the pandemic. With limited resources and digital infrastructures, the Supreme Court of Bangladesh has faced a significant challenge in introducing virtual courts during the Covid-19 pandemic.

Promulgation of the *Adalat Kartrik Tottho-Projukti Bebohar Ain, 2000*

On 09th May, 2020, the President of Bangladesh, while the Parliament was not in session, by exercising jurisdiction under Article 93(1) of the Constitution promulgated Ordinance No.1 of 2020, namely *Adalat Kartrik Tottho-Projukti Bebohar Ordinance, 2000*, as it was perceived that Bangladesh has no procedural law that empowers the courts to conduct virtual hearing by using technologies. Section 5 of the Ordinance provides that for the application of section 3 and 4 of the Ordinance, the Appellate Division or the High Court Division of the Supreme Court, if necessary, from time to time, may circulate Practice Directions special or general. After being empowered with the said provisions of the Ordinance, the Supreme Court has issued practice directions for the Appellate Division, High Court Division, and the subordinate courts and tribunals for hearing cases virtually amid the Covid-19 pandemic vide Notification No. 213 dated 10th May, 2020. In the above backdrops, some courts and tribunals of the country including some Benches of the High Court Division and the Chamber Court of the Appellate Division were re-opened in a limited manner by Order of the Hon'ble Chief Justice for dispensation of justice

through video conferencing with effect from 10th June, 2020. Later on, the Parliament decided to adopt the provisions of the said Ordinance in its budget session and accordingly, without any significant change of the provisions under Ordinance, enacted the “*Adalat Kartrik Tottho-Projukti Bebohar Ain, 2020*” (Act No. 11 of 2020) taking assent of the President, which was published in the Bangladesh Gazette on 09th July, 2020.

How it Works

This Act of 2020 is a procedural law and applicable all over the country in the dispensation of judicial functions. It has extended the powers of the regular courts during any pandemic situation by enabling the courts to remain in function virtually in the absence of physical appearance. It has empowered the courts in Bangladesh to use information-technology for the purpose of ensuring virtual presence of the litigants, witnesses, lawyers or any other person in the court proceeding like trial of the case, inquiry, application or appeal hearing or recording evidence or argument hearing or delivering judgment or order by the court. This virtual presence would be treated as physical presence. The legislature's intention in enacting the Act is to assist litigants during the COVID-19 pandemic. The courts and tribunals in Bangladesh run under the provisions of the various statutes but by promulgating this Act the legislature has given the courts additional power to adjudicate cases of the litigants through information-technology.

After enactment of the Act of 2020, the Supreme Court is using the virtual court medium to minimize the crowd of advocates, litigants, bundles of documents, files and briefs in the courtroom in parallel with physical court although the virtual sessions are allocated more time than the physical sessions.

Any lawyers wishing to file an application/petition must file it through the concerned section of the court. The court associate providing a case number publishes the same in the daily cause list online while a true copy of the application is handed over to the concerned judge. The court then, in applicable cases, sends a notice to the concerned party(s) together with the copy of the application/petition informing about the virtual hearing using a suitable online video conferencing platform, such as Apps like Zoom, WebEx, Microsoft Teams, Google Meets or Whatsapp. Currently, Zoom has become the most popular platform of the video conferencing in

the virtual court system of Bangladesh. In order to connect to a virtual court, one has to install the relevant App(s) as per court's practice in his/her laptop or mobile phone from Google Playstore or visit the link of the App's website and then place the meeting link or passcode of the courts (as given in the cause list) in the App's account. Anyone interested can be connected to the virtual courts.

On October 19, 2020, the Supreme Court launched a mobile application (app) so that concerned parties, such as lawyers, litigants, and law enforcement officers, can get updates on cases, as well as the latest positions and outcomes.

Virtual court has some challenges that need to be solved, for instance, virtual court relies heavily on web apps such as Zoom, Whatsapp, Microsoft Teams, or Google Meets, but the virtual court system have to provide adequate cyber security measures which will ensure fairness, privacy and data protection concerns by building its own App or software control.

Conclusion

During this current COVID-19 pandemic, many courts are now closed, and only a handful are operating virtually whereas few lower courts are running physically to hear and adjudicate only urgent matters such as bail matters and the cases with immense importance, for instance, succession cases in the civil courts and the litigations involving negotiable instruments in the criminal courts. In the Admiralty Court urgently matters such as applications for arrest and release of vessels are being heard.

The citizens are stripped of their legal rights as a result of the court closure, as they are unable to obtain legal redress for disputes, victimization, enmity, and other issues. The only way forward in the new era of the pandemic-induced situation is to familiarize the virtual court system in the regular legal system of the country. The promulgation of the *Adalat Kartrik Tottho-Projukti Bebohar Ain, 2020* and the advent of virtual court under the said Act mark a turning point in the country's legal history. It is a new chapter in the country's judiciary. The government has taken initiative for e-judiciary and this Act of 2020 and the virtual court system as functioning under the said Act can be considered to be the first step in establishing an e-judiciary in the country.