



रक्षालेखामहानियंत्रक
Controller General of Defence Accounts
उलानबटाररोड़, पालम, दिल्लीछावनी - 110010
Ulan Batar Road, Palam, Delhi Cantt - 110 010.
☎ 011-25665753, Fax No.25674806/5674821
E-mail: legalcgda.dad@hub.nic.in



No. AN/Legal/Court Cases/Misc. Circular

Date 17.08.2020

Through Website only


To

All Nodal Offices

Subject: - Timely submission of comments/information/inputs by Ministry/ Departments to Ld. AG/Ld.Sgs/Ld.ASGs/Law officers-reg.


Please find enclosed a copy of MoD (Fin) DAD (Coord) ID No. 17(2)/C/2020(1091/DAD/C/20) dated 10.08.2020 alongwith the copy of MOD, D(CMU) ID No. 1(4)/2020/D(CMU) dated 24.07.2020 and its enclosures on the above subject, which is self explanatory, to ensure strict compliance of instructions contained in the circular.

Encl: As Above


(Rajeev Ranjan Kumar)
Dy. CGDA (AN)

Copy to:

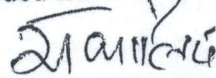
The Officer In-Charge, : For uploading the circular on the official website of this office.
IT&S Wing,
(Local)


(KSP Srivastava)
AO (AN-Legal)

Ministry of Defence(Finance)
DAD(Coord)

Subject: Timely submission of comments/information/inputs by Ministry /Departments to Ld AG/Ld.Sgs/Ld.ASGs/Law officers-reg.

A copy of Ministry of Defence, D(CMU) ID No. 1(4)/2020/D(CMU) dated 24.07.2020 alongwith its enclosures on the subject mentioned above is forwarded herwith for information and compliance.


(Rajesh Kalia)
SO(DAD Coord)

Sr.AO (Legal Cell)
O/o CGDA, Delhi Cantt

MoD(Fin.) ID No. 17(2)/C/2020(1091/DAD/C/20) dated 18.08.2020



Government of India
Ministry of Defence
D(CMU)

39

Subject: Timely submission of comments/ information/ inputs by Ministry/Departments to Ld AG/ Ld. SGs/ Ld. ASGs/ Law officers-reg.

Reference is invited to officer order no. 1(1)/2015-D(CMU) dated 02.02.2016 and no. 6176/2015-D(CMU) dated 03.04.2017 wherein detailed instructions were issued for processing of court cases/appeals (copies enclosed).

2. However, Secretary, Department of Legal Affairs, Ministry of Law & Justice vide DO letter no 358763/LS/2020 dated 22.06.2020, addressed to Defence Secretary has mentioned that Ld AG has observed that in some urgent cases, comments, information or inputs on the stand of UOI sought by Ld. AG have not been forthcoming within the stipulated period, leading to embarrassing position when they face the courts.

3. Presently many Public Interest Litigations (PILs) and other writ petitions are being filed seeking intervention of the courts arising out of the Covid-19 pandemic and the situation calls for quick response from the concerned departments to ensure proper assistance to the courts.

4. In Ministry of Defence, court cases are being dealt by the concerned Department/Wing dealing with the subject matter. Joint Secretaries, of the concerned wings are the nodal officers for processing of court cases. All Wing Heads are therefore requested to stay in touch with the Central Agency Section (CAS) as well as the office of Ld AG/Ld SG or the concerned Law Officers, for proper follow up of important cases. Further, whenever requested or felt necessary, the Law officers should be briefed well before the date of hearing indicating the stand of Union of India in the given case. It should also be ensured that these cases should be entered and regularly monitored on the LIMBS web platform maintained by the Department of Legal Affairs.

Encl: As above

Ashok Chakrapani
(Ashok Chakrapani)
Director OSD (CP)
Tele:23011681

All Joint Secretaries in MoD

MoD ID No. 1(4)/2020/D(CMU) Dated 27.07.2020

1091/DAD/C/20
31/7/2020

Office of Addl. TA (M) S
By. No. 2594
Date. 30/7/20

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30/7/20

DFA (DAD-CO)

AK

अनूप कुमार मेंदीरत्ता

Anoop Kumar Mendiratta



सत्यमेव जयते

सचिव
विधि और न्याय मंत्रालय
भारत सरकार

SECRETARY
DEPARTMENT OF LEGAL AFFAIRS
MINISTRY OF LAW & JUSTICE
GOVERNMENT OF INDIA

D.O.358763/LS/2020

June 22, 2020

Dear Secretary,

As you are aware the Ld. Attorney General of India, Ld. Solicitor General of India and other Additional Solicitor Generals appointed by the Govt. have the onerous responsibility *inter alia* of representing the Union of India in the various cases before the Supreme Court of India and other High Courts. Ld. AG, being the highest Law Officer of the country is discharging a constitutional role. In discharge of functions, Law Officers require prompt and able assistance from the various Ministries/Departments of the Government of India so that they can appropriately place the stand of the Govt. before the court. However, it has come to notice that in some of the urgent cases, comments, information or inputs on the stand of Union of India sought by Ld. AG, have not been forthcoming within the stipulated period. Ld. Attorney General in this regard has observed vide his separate letter that the Supreme Court of India expects the Govt. to act promptly. Further in the absence of the same, the Law Officers representing the Union of India are placed in an embarrassing position when they have to tell the court that they have not yet received instructions from the Government.

It may be impressed upon that any lackadaisical approach in management of court cases displayed by the Ministries/ Departments of the Govt. of India not only gives rise to the possibility of passing of adverse orders by the courts against the government but also results in avoidable embarrassment to all concerned including the Law Officers representing the respective case. Presently, many Public Interest Litigations (PILs) and other writ petitions are being filed seeking intervention of the Courts arising out of the Covid-19 pandemic and the situation calls for quick response from the concerned departments to ensure proper assistance to the courts. For aforesaid purpose, Ld. AG has desired that some system be put in place by which it is ensured that whenever the court desires, replies or affidavits, the Govt. is able to respond within the stipulated time. In aforesaid context the outer date by which the inputs are required to be given by the concerned Departments/Ministries also needs to be strictly adhered to.

In aforesaid background, Secretaries to the Govt. of India are requested to ensure that prompt action is taken and response is forwarded to Ld. AG/Ld. SG or the concerned Law Officers in the concerned cases wherein they are representing the Union of India and the timelines are strictly followed. Also officers at the level of Additional Secretary / Joint Secretary in the concerned Ministries/Departments may be nominated as nodal officers for ensuring prompt action. Further all such important cases need to be brought to the notice of the concerned Secretary to ensure proper monitoring and progress of the cases. The nodal

चतुर्थ तल, शास्त्री भवन, डा. राजेन्द्र प्रसाद रोड, नई दिल्ली-110 001

4th Floor, Shastri Bhawan, Dr. R.P. Road, New Delhi-110 001

Tel. : +91-11-23384205, 23387908, Fax : +91-11-23384403, E-mail : secylaw-dla@nic.in

AS (NSV)
too many
cases? do
we have a
int? NO
6/7
JS (E)
JS (6000)

No.6176/2015-D (CMU)

Ministry of Defence
Department of Defence

New Delhi,
Dated the 3rd April, 2017.

OFFICE ORDER

Subject: Procedure for handling court cases - regarding.

It has come to notice that due to lack of co-ordination between various directorates and the divisions of MOD, absence of a uniform approach and timely action in handling the court cases, the litigation including contempt petitions are on the rise.

2. With a view to ensuring timely action for defending the cases effectively and also to reduce the incidence of contempt petitions, the following instructions may be followed:-

- (a) The notice/papers relating to any new OA /Writ Petition/Review Petition filed and received in D(CMU), MoD shall be immediately forwarded to the concerned Wing/Division of MoD.
- (b) In addition to the above, the Divisions may also receive new OA /Writ Petition/ Review Petition directly. The Divisions in both these cases, shall:
 - (i) retain a complete copy of the OA for future reference and taking up follow up action;
 - (ii) make entries in the LIMBS portal; and
 - (iii) pass it on to the concerned Service Headquarters with suitable instructions, if any.
- (c) The concerned Service Headquarters would be responsible for getting the reply/ counter affidavit filed before the appropriate court. They may seek advice of the Administrative Wing concerned, if required. The Service Headquarters may devise their own Standard Operating Procedures (SOPs) and timelines in this endeavour.
- (d) As soon as an order is passed in a case, the concerned field unit/office will obtain a copy of the order from the Counsel concerned at the earliest and send an advance copy of the same, along with the advice of the Government Counsel handling the case, directly to the concerned Service Head Quarters, who in turn will mark a copy of the same to the Administrative Wing. This would be in addition to submission of the same through the normal service channel.

Dated 2nd February, 2016

OFFICE ORDER

Subject: Filing of Appeal/SLP in Supreme Court – Procedure regarding

In the context of the increasing number of court cases where the Government is a litigant before various courts, Ministry of Law had brought out the National Litigation Policy in 2010. The policy states that Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The policy further states:

“In Service Matters, no appeal will be filed in cases where:

- a) the matter pertains to an individual grievance without any major repercussion;
- b) the matter pertains to a case of pension or retirement benefits without involving any principle and without setting any precedent or financial implications.”

2. Further at a meeting held on 08.10.2015, Hon'ble Raksha Mantri expressed concern over the fact that Appeals/SLPs are filed in the Supreme Court in a routine manner and in several cases adverse orders are passed by the Supreme Court much to the embarrassment of the Government. Hon'ble RM observed that there may be court orders which deviate from government policy or have large financial implications. In such cases filing Appeal/SLP may be inevitable. There may however be some court orders which do not have wide repercussions and may have only meager financial implications. In such cases it may be necessary to examine whether it is administratively expedient to file Appeal/SLP in the Supreme Court.

35


returned to LA(Def) for onward transmission to Central Agency Section for filing Appeal/SLP in the Supreme Court. But it has to be kept in mind that in the process, the limitation for filing Appeal/SLP does not get expired. In case, such period has already expired, then reason for the delay has to be shown date-wise for filing an application for getting the delay condoned.

- f. If, however, LA(Def) does not agree with the proposal for filing Appeal/SLP and the JS also, in view of the advice of LA(Def), decides that there is no need to file Appeal/SLP, the file will be sent back to Service Hqrs/Directorate for implementing the order.
- g. If, in spite of the advice of LA(Def) not to file Appeal/SLP, JS decides that there is still justification for filing Appeal/SLP, he will take the approval of Additional Secretary (AS) and send the file to MOL/CAS through LA(def).

4. Approval of Raksha Mantri shall be taken in all sensitive cases or where wider interests of Public Policy are involved. A decision whether a case will be shown to the Minister will be taken at the level of Joint Secretary.

5. This order is issued in supersession of the earlier order No. 1-34(4)/88-O&M dated 2nd June, 1988.

All Officers and Sections in the Ministry of Defence


(R. Pandiyan)
Deputy Secretary (E+MIS)
Tel: 23013416