

F. No. J-12017/1/2019-Judicial
Government of India
Ministry of Law & Justice
Department of Legal Affairs
(Judicial Section)

Shastri Bhawan, New Delhi
Dated 21st October, 2019

OFFICE MEMORANDUM

Sub: Engagement of Counsel on behalf of Union of India – regarding.

As per the Government of India (Allocation of Business) Rules, 1961 the Department of Legal Affairs has, *inter-alia*, been entrusted with the following functions:

(i)engagement of counsel to appear on behalf of the Union of India in the High Courts and subordinate courts where the Union of India is a party.

(ii) Conduct of cases in the Supreme Court and the High Courts on behalf of the Central Government and on behalf of the Governments of States participating in the Central Agency Scheme.

2. To perform the above functions the Department of Legal Affairs has been empanelling suitable Advocates as Law Officers {i.e. Attorney General for India, Solicitor General of India and Additional Solicitors General of India (ASGIs)}, Assistant Solicitors General of India (Asst. SGIs) and various categories of Panel Counsel for various courts / tribunals across the country. These panels are made for a particular tenure after which either their tenures are extended or new panels are formed. Besides this, some Ministries / Departments performing special / technical functions have been authorized to select panel of counsels as per their specific requirements and the said panel is finally approved by this Department. In addition to this, in some specific / sensitive / high stake cases, proposals are received from various Ministries / Departments of Central Government for the engagement of special counsel which are considered by the Department of Legal Affairs on case to case basis. All the engagements / appearances of Advocates for conducting Central Govt. litigation before any court / tribunal without approval of this Department or contrary to the procedure established are in violation of the provisions of the Govt. of India (Allocation of Business) Rules, 1961.

3. Earlier, from time to time instructions have been issued by this Department. Recently, OM Nos. 34(01)/2012-Judl. dated 05.12.2012 and OM No. 29(2)/2002-Judl. (Pt.) dated 16.01.2015 have been issued.

4. Despite this, It has come to notice of this Department that various Ministries / Departments of Govt. of India and their subordinate offices (especially at District level)

are deviating from this procedure. Therefore, it has been decided to again issue a detailed OM re-iterating compliance / guidance of all the Ministries / Departments and their subordinate offices, described as under:

(A) **Various Courts / Tribunals at Delhi:**

In Delhi, there are attached offices of this Department viz. Central Agency Section, Litigation (High Court/CAT) Section, Litigation (Lower Court) Section of this Department which are responsible for engaging suitable panel counsel from the panel of this Department for various courts / tribunals situated in Delhi as and when notices/requests, in this regard, are received by them. Similarly, In-charge Central Agency Section and In-charge Litigation (High Court) Section are responsible for engagement of Law Officers for conducting Central Govt. litigation before the Supreme Court of India and High Court of Delhi, respectively. Details in this regard are as under:

Sl. No.	Name of the subordinate office	Court/Tribunal before which engagements are made
1.	Incharge, Central Agency Section	Supreme Court of India
2.	Incharge, Litigation (High Court/CAT) Section	High Court of Delhi, Armed Forces Tribunal (PB), National Green Tribunal (PB) and CAT (PB), New Delhi and other Tribunals/ Commissions situated in Delhi.
3.	Incharge, Litigation (Lower Court) Section	District Courts, Dwarka, Rohini, Patiala House, Tis Hazari, Karkardooma and Saket and other subordinate courts in Delhi.

B). **Various Courts / Tribunal at Mumbai, Kolkata, Chennai and Bengaluru:**

There are four Branch Secretariats of this Department at Mumbai, Kolkata, Chennai and Bengaluru working as subordinate offices who engage counsel from the panel of this Department for respective court / tribunal (including High Court, CAT Bench, AFT Bench, NGT Bench and District & Subordinate Courts) within their jurisdiction.

C). **Various High Courts / CATs / AFTs / NGTs in the country:**

In places except the stations mentioned under para (A) to (B) above, the engagement of counsel from the panel for respective court / tribunal is made by the concerned In-charge litigation for that court / tribunal. The present position in this regard is as under:

Sl. No.	Court / Tribunal	In-charge litigation (by Designation)
1.	High Courts	Additional Solicitor General of India (ASGI) OR Assistant Solicitor General of India (Asst. SGI) (ASGI will prevail if available)

2.	CAT, AFT, NGT Benches (outside Delhi)	Concerned Senior Central Government Standing Counsel (Sr. CGSC)
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D). **District & Subordinate Courts in the country except at Delhi, Mumbai, Kolkata, Chennai & Bengaluru:**

For District & Subordinate Courts in the country except at Delhi, Mumbai, Kolkata, Chennai & Bengaluru, the concerned Standing Government Counsel (SGC) is the In-charge litigation who is entrusted with the task of allocation of cases amongst the other panel counsel for the concerned District & Subordinate Courts, i.e. Additional Standing Govt. Counsel (including the SGC).

5. All the Departments / subordinate offices of the Central Government are required to directly contact the Litigation Incharge of the concerned court / tribunal as detailed in para 4 (A) to (C) above, for the engagement of counsel / change of counsel (if required) from the panel for that court / tribunal to represent Union of India in their cases. The contact details of the concerned ASGI / Asst. SGI / Sr. CGSC/ SGC / Incharge of Litigation Sections & Branch Secretariats are available on the official website of this Department. Departments / subordinate offices of Central Government are advised to ensure from time to time that the panel counsel who is representing them is still on the panel of this Ministry. If the tenure of representing panel counsel expires before disposal of the case, the concerned Litigation Incharge may be approached for the engagement of another counsel from the panel. All the Ministries / Departments are advised not to engage counsel who are not on the panel of this Ministry/Department without approval of this Department.

6. In addition to the above, in this context, Item No. 9 (i) of the Annexure to Schedule V of the Delegation of Financial Power Rules (DFPR), 1978 is also referred which clearly establishes the principle for the expenditure on account of Legal Charges which needs to be paid to all kinds of Barristers, Advocates, Arbitrators, Pleaders and Umpires representing Union of India before any court (including tribunals) in the country only with the prior consent of this Ministry, and, in case of Law Officers/panel counsel engaged by this Ministry, Legal Charges are to be paid as per the fee schedule prescribed by this Department for the purpose.

7. **In light of the above, engagement of counsel to represent Union of India before any court / tribunal of the country, who are not on the panel of Ministry of Law & Justice with running tenure and / or whose engagement has not been approved by Ministry of Law & Justice, is violation of (i) the Government of India (Allocation of Business) Rules, 1961 and (ii) the Delegation of Financial Powers Rules, 1978.**

8. All the OMs of this Department referred above, Details of concerned Litigation Incharges and details of Panel Counsel (in the form of orders of empanelment) are available on official website of this Department i.e. www.legalaffairs.gov.in.

9. This is for information of all the Ministries / Departments of the Government of India and offices subordinate to them for strict compliance.

10. All the subordinate offices of this Department i.e. the Central Agency Section, Branch Secretariat at Mumbai, Kolkata, Chennai and Bengaluru, all Litigation Sections at New Delhi and all the Litigation In-charges before various courts / tribunals in the country are also requested to ensure strict compliance of instructions contained in this Circular and in case of any deviation this Department may be informed immediately.

11. This issues with the approval of Hon'ble Minister for Law & Justice.



(S. R. Mishra)
Additional Secretary

To,

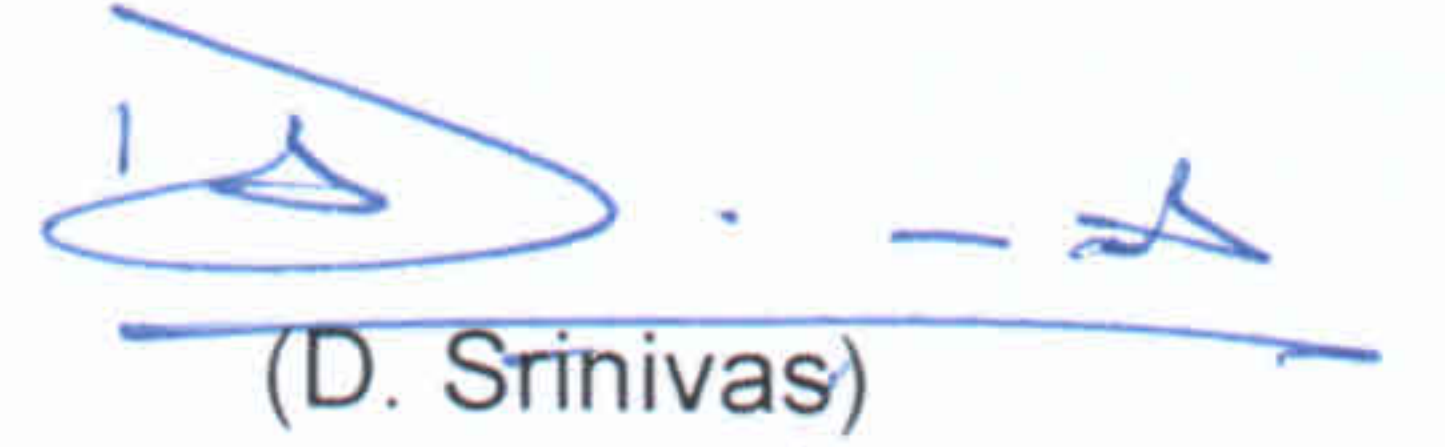
1. All the Ministries / Departments of Govt. of India (as per list enclosed) with request to give wide publicity of the contents of this circular amongst all their subordinate offices.
2. The Comptroller & Auditor General of India with request to give wide publicity of the contents of this circular amongst all of their Audit units.
3. The Controller General of Accounts with request to give wide publicity of the contents of this circular amongst all their PAOs/ZAOs/CDDOs across the country.
4. The Registrars of all the High Courts/CATs/AFTs/NGTs in the country and their Benches with request to the give wide publicity of the contents of this Circular amongst all the District Judges under their jurisdiction.
5. The Incharge, Branch Secretariats at Mumbai, Kolkata, Chennai & Bengaluru.
6. The Incharge, Central Agency Section, Supreme Court of India.
7. The Incharge, Litigation (High Court/CAT/Lower Court) Section at New Delhi.
8. The Additional Solicitors General of India for the High Court of Punjab & Haryana, Allahabad, Patna and Rajasthan.
9. All the Senior Central Govt. Standing Counsel for various CAT Benches, AFT Benches, NGT Benches across the country.
10. All the Standing Govt. Counsel for various District & Subordinate Courts in the country.

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Dated : 21.10.2019

Copy to:

1. PS to Hon'ble MLJ/PS to Law Secretary/PS to Legislative Secretary/ PS to all Additional Secretaries/PS to all Joint Secretaries of Department of Legal Affairs.
2. PS to Additional Legal Adviser (Judicial) of Department of Legal Affairs.
3. The Assistant Legal Adviser (Judicial) of Department of Legal Affairs.
4. To be uploaded on website of the Department of Legal Affairs i.e. www.legalaffairs.gov.in under tab 'Judicial Section' in the link 'Circulars pertaining to litigation'.
5. Office/Spare Copies.



(D. Srinivas)

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