

प्रेम कुमार मल्होत्रा  
सचिव  
P. K. Malhotra  
Secretary



भारत सरकार  
विधि और न्याय मंत्रालय  
विधि कार्य विभाग  
GOVERNMENT OF INDIA  
MINISTRY OF LAW & JUSTICE  
DEPARTMENT OF LEGAL AFFAIRS

August 27, 2015

D.O. No.35(1)/2015-Judl.

Dear Secretary,

It has been brought to my notice by the field Offices of Ministry of Law and Justice and by Government Counsels appearing on behalf of Union of India in various Courts / Tribunals that many a time the reply / counter-affidavits are not filed in the court within the time granted by the Court causing inconvenience to the Court, delay in proceedings and unnecessary embarrassment to the Government. Of late, Courts have been taking serious view of delay in filing / counter-affidavits and imposing heavy cost to be recovered from the officer concerned.

One such case pertaining to Ministry of Environment and Forests came before the Bench of Hon'ble Chief Justice of Madras High Court in which the Hon'ble Court has taken a serious view in the matter and passed Order as under:-

*"Learned Assistant Solicitor General seeks additional time to file the counter-affidavit. This is not the only matter where we are faced with this position i.e. counter-affidavits not being filed in time, despite time period being granted as requested by the Ld. Government Pleaders for the Central Government. Whether it is six weeks or eight weeks, whatever time we grant, in every case, there is second request made for filing the counter-affidavit, causing inconvenience to Court, delay in proceedings and unnecessary embarrassment even to the Law Officers. This issue needs to be set right.*

2. We are given to understand that once a matter pertains to a particular Ministry, Nodal officer of that Ministry is expected to coordinate the matter. Thus, it is stated that the Law Ministry really does not hold the matter once it is entrusted to the Ministry concerned.

3. We call upon the Law Secretary to look into the matter for the purpose of ensuring a better coordination and put the officers concerned to notice that this Court would have no other option, but to impose exemplary costs for the delay in filing the counter-affidavits and that costs would be recovered from the officer concerned for not ensuring the affidavits being filed in time. We want to emphasize that the date of filing of the affidavit must be complied with and not that it is produced on the date of hearing.

Contd.2/-



4. As a last chance, we grant four weeks' time to file the counter-affidavit. Thereafter it will be taken on record only subject to the deposit of costs of Rs.10,000/- to be recovered from the officer concerned and the Recovery Certificate be also filed.
5. Re-joinder, if any, be filed within two weeks thereafter.
6. List on 18.8.2015"

This Department has been issuing instructions from time to time that the Nodal Officers of the Ministry / Department should stay in touch with the Government Counsel for proper handling of the matter. Such coordination with the Government Counsel will surely help in reducing delay in filing of reply / counter-affidavits.

I shall be grateful if you can sensitize your officers that court cases are properly monitored and replies are filed on time to avoid passing of such orders in future. If any officer is found negligent in handling court matters, the administrative Ministry may consider taking appropriate action against him in accordance with the rules.

I shall be grateful if these instructions can be brought to the notice of all Departments / PSUs under your administrative control.

With regards,

Yours sincerely,

  
(P.K. Malhotra)

*All Secretaries to the Government of India.*