

F.No.28/2/2016-Admn.I (LA)
Government of India
Ministry of Law and Justice
Department of Legal Affairs

Shastri Bhawan, New Delhi
Dated:- 5th July, 2016

CIRCULAR

A copy of Cabinet Secretariat, Rashtrapati Bhavan's D.O. No. 1/50/3/2016-Cab. dated 16.06.2016 along with its enclosure is hereby circulated for information and strict compliance.



(A. K. Joshi)

Deputy Secretary to the Govt. of India

To:-

All the ILS Officers and Sections in the Department of Legal Affairs.

प्रदीप कुमार सिन्हा
PRADEEP K. SINHA



सत्यमेव जयते



मंत्रिमंडल सचिव
भारत सरकार
CABINET SECRETARY
GOVERNMENT OF INDIA

D.O. No. 1/50/3/2016-Cab.

16th June, 2016

Dear Secretary

I would like to draw your attention to this Secretariat's D.O. letter No. 6/1/1/94-Cab. dated 25.02.1994 (copy enclosed) wherein it was mentioned that the business of the Government of India is transacted in the Ministries and Departments in accordance with the Allocation of Business Rules, 1961. As the Ministries and Departments conduct the 'allocated' business on behalf of the Government of India, all Ministries / Departments were requested to ensure that (i) a unified stand is taken before Courts of Law rather than bringing out the point of view of each Ministry/Department in the counter-affidavit/reply; and (ii) a common counter-reply is filed on behalf of the Union of India by the Ministry/Department concerned instead of separate affidavits being filed by each Ministry/Department named as Respondents.

2. It has, however, been observed that at times different Departments take up divergent positions/individual interpretations in court cases thereby causing avoidable confusion in the submissions finally deliberated upon before the Courts. It may be noted that it is primarily the responsibility of the Administrative Ministry/ Department to take timely action at each stage including filing of a counter affidavit during a Court case after completing necessary consultations with the other Ministries/ Departments concerned.

3. If in any case, separate counter-affidavits are required to be filed by orders of the Court, it should be ensured that this is done in consultation with the Ministries/ Departments concerned for a coordinated approach. In such cases, a short affidavit endorsing the views of the Administrative Ministry/Department can also be filed.

4. In this regard, attention is also drawn to instructions issued by the Ministry of Law, Department of Legal Affairs from time to time where it has been stipulated that the Ministry/ Department is required to get the counter affidavit vetted from the Department of Legal Affairs before filing.

5. I would therefore request you to ensure that differences, if any, in the stand of Ministries/ Departments in any particular court matter are resolved through mutual consultation, as brought out above. It may also be ensured that the counter affidavits are filed only after appropriate vetting by the Department of Legal Affairs.

6. Please ensure that these instructions are noted and disseminated to all concerned for strict compliance.

With regards,

May be circulated to all ILS officers & sections.
24/6/06
Yours sincerely,
Pradeep K. Sinha

Encl. - As above.

Dr. G. Narayana Raju
Secretary,
Deptt. of Legal Affairs
New Delhi

As per [Signature] as above
27-6-16
Ds (AKS)

IMMEDIATE

SN02(C)



P.P. Prabhu,
Additional Secretary
(Tel. 3012697)

प्रपर सचिव
मंत्रिमण्डल सचिवालय
राष्ट्रपति भवन, नई दिल्ली
ADDITIONAL SECRETARY
CABINET SECRETARIAT
RASHTRAPATI BHAVAN
NEW DELHI

D.O.No.6/1/1/94-Cab.

25th February, 1994.

Dear Shri

The business of the Government of India is transacted in the Ministries and Departments in accordance with the Allocation of Business Rules, 1961. In other words, Ministries and Departments conduct the 'allocated' business on behalf of the Government of India. It was in this spirit that the Ministry of Finance, Department of Expenditure issued instructions vide their O.M.No.7(32)-E.III/92 dated 24th May, 1993 (copy enclosed) that (i) a unified stand should be taken before Courts of Law rather than bringing out each concerned Ministry's/Department's point of view in the counter-affidavit; and (ii) a common counter-reply should be filed on behalf of the Government by the concerned Ministry/Department instead of separate affidavits by each Ministry/Department named as Respondents.

2. It has come to notice that these instructions are not being followed by a number of Ministries/Departments. There have been instances where statements/submissions made before Court/CAT indicated that the matter has been recommended to the Ministry of Finance or the Department of Personnel & Training or that while the Administrative Ministry/Department recommended the proposal, Ministry of Finance had not approved. In one case where certain employees had filed an Application before the CAT for revision of scales of pay, the administrative Ministry made a submission that the cadre review proposals had been submitted for approval of the Ministry of Finance. Ministry of Finance could not, however, agree to the recommendations of the administrative Ministry in this case and the Secretary of that Department was put in an embarrassing position. In another case, a submission was made before the CAT that they had found the Applicant suitable and had recommended to the Ministry of Finance to extend the Flexible Complementing Scheme to the Applicant. The above affirmation led the Tribunal to decide the matter in favour of the Applicant eventhough the Ministry of Finance held a view to the contrary. Such situations could have been avoided had the administrative Ministry/Department given the final view of the Government of India rather than their individual position.

3. It is, therefore, desirable that counter-replies filed before Courts/CAT are carefully dealt with at appropriate level, strictly in accordance with the Ministry of Finance, Department of Expenditure O.M. No.7(32)-E.III/92 dated 24th May, 1993 referred to above.

This issues with the approval of Cabinet Secretary.

With regards,

Yours sincerely,

(P.P. Prabhu)

All Secretaries to GoI.

Separate note to Madam
Dr.