

ਡਾਇਰੈਕਟੋਰੇਟ, ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ, ਪੰਜਾਬ
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(LEGAL CELL)

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ਵੱਲ

- 1) ਸਮੂਹ ਅਧਿਕਾਰੀ
ਸਕੱਤਰੇਤ ਅਤੇ ਡਾਇਰੈਕਟੋਰੇਟ,
ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ,
- 2) ਸਮੂਹ ਕਮਿਸ਼ਨਰਜ਼
ਨਗਰ ਨਿਗਮਾਂ, ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ(ਪੰਜਾਬ ਰਾਜ),
- 3) ਸਮੂਹ ਏ.ਡੀ.ਸੀ (ਯੂ.ਡੀ)
ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ,(ਪੰਜਾਬ ਰਾਜ),
- 4) ਸਮੂਹ ਸ਼ਾਖਾ ਸੁਪਰਡੈਂਟ,
ਸਕੱਤਰੇਤ ਅਤੇ ਡਾਇਰੈਕਟੋਰੇਟ,
ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ,
- 5) ਸਮੂਹ ਕਾਰਜ ਸਾਧਕ ਅਫਸਰ,
ਨਗਰ ਕੌਂਸਲਾਂ/ਨਗਰ ਪੰਚਾਇਤ/ਇੰਮਪਰੂਵਮੈਂਟ ਟਰੱਸਟ,
ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ, (ਪੰਜਾਬ ਰਾਜ)|

ਵਿਸ਼ਾ:- ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਪੰਜਾਬ ਦੇ ਸਟੈਂਡਰਡ ਆਪਰੇਟਿੰਗ ਪ੍ਰੋਸੀਜਰ ਆਨ ਕੋਰਟ
ਲਿਟੀਗੇਸ਼ਨ ਨੂੰ ਜਾਰੀ ਕਰਨ ਸਬੰਧੀ।

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਸਬੰਧੀ ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਵਿੱਚ ਕੋਰਟ ਕੇਸਾਂ ਨੂੰ ਸਮਾਂ ਬੱਧ ਤਰੀਕੇ ਨਾਲ ਨਜਿੱਠਣ ਲਈ ਐਸ.ਓ.ਪੀ (Standard Operating Procedure) ਆਨ ਕੋਰਟ ਲਿਟੀਗੇਸ਼ਨ ਤਿਆਰ ਕੀਤਾ ਗਿਆ ਸੀ ਜਿਸ ਸਬੰਧੀ ਸਮੂਹ ਸਕੱਤਰੇਤ, ਡਾਇਰੈਕਟੋਰੇਟ ਅਤੇ ULBs ਤੋਂ ਹਫਤੇ ਦੇ ਅੰਦਰ-ਅੰਦਰ ਆਪਣੇ ਕੁਮੈਂਟਸ/ਇਤਰਾਜ਼ ਭੇਜਣ ਲਈ ਲਿਖਿਆ ਗਿਆ ਸੀ ਜਿਸ ਉਪਰੰਤ ਇਸ ਪੱਤਰ ਰਾਹੀਂ ਫਾਈਨਲ ਕੀਤਾ ਐਸ.ਓ.ਪੀ (Standard Operating Procedure) ਆਨ ਕੋਰਟ ਲਿਟੀਗੇਸ਼ਨ (ਕਾਪੀ ਨਾਲ ਨੱਥੀ) ਨੂੰ ਜਾਰੀ ਕਰਕੇ ਆਪ ਜੀ ਨੂੰ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਇਸ ਦੀ ਇੰਨ-ਬਿੰਨ ਪਾਲਣਾ ਕਰਨਾ ਯਕੀਨੀ ਬਣਾਇਆ ਜਾਵੇ ਜੀ।


ਸੀਨੀਅਰ ਕਮਿਸ਼ਨਰ ਅਫਸਰ

Standard Operating System

On

Court Litigations

2021

Department of Local Government, Punjab

Government of Punjab

Preface

The Standard Operating Procedure for handling litigation in the Supreme Court, High Court and other courts/forums in a time bound manner has been a long felt need, and the Manual of SOP is an attempt made by the Department of Local Government, Punjab to address the issue.

Though every care has been taken to ensure that this manual is user friendly and answers the needs of officer of the Department and Urban Local Bodies handling the litigation, yet scope for improvement is always there. All are requested to send their suggestions for improvement, if any, to the Senior Law Officer, Department of Local Government, Punjab.

Department of Local Government
Government of Punjab

1. Managing the DAK relating to the litigation received in the

Department:-The dak in shape of Demi Official Letters, e-mails, Notices or summons relating to the litigation is generally received in the Department including Additional Deputy Commissioner (Urban Development) or in any Urban Local Body i.e all Municipal Corporations, Municipal Councils/Nagar Panchayat and Improvement Trusts in State of Punjab from the Hon'ble Punjab and Haryana High Court, Learned Advocate General Office and other Courts/Tribunals/Forums/Commissions etc..

- 1.1. All such dak received and downmarked by the Additional Chief Secretary/Principal Secretary, Director or any concerned officer, shall mandatorily be sent to the Legal Branch, so that it is in their knowledge. In case any such document is not marked to the branch through the legal branch, then Branch Superintendent/Incharge shall ensure the same is brought into the knowledge of legal branch of the department. Similar procedure shall be followed by all the ADC(UD) and ULBs so that their law branches are aware of litigation.
- 1.2. The Legal Branch shall make efforts to have a record of the dak with special attention towards the critical matters received through the dak. It shall get these matters separately highlighted from its staff and it shall be the duty of the staff with the legal branch to bring to the knowledge of the Senior Law Officer/Law Officer of the Department towards such matters timely or the Head of Legal Branch of ULBs as the case may be.
- 1.3. Once dak is seen by the Legal Branch, it shall be downmarked to the concerned branches on the basis of their work distribution. It shall be the duty of the branch then to expeditiously ensure disposal of this dak. It shall be the duty of the branch concerned to highlight critical matters received through the dak that are related to it and to keep proper tacking and follow up of these matters.

- 1.4. The Superintendents/In-charge of the concerned branches shall review the legal matters and critical legal issues within the branch and then bring into the notice of the Branch Officer concerned and the Senior Law Officer/Law Officer. It shall be the duty of the Branch Officer concerned and the Legal Branch to work in tandem and remove any difficulty faced by the branch in the disposal of the issue .
- 1.5. In case there is any technicality then the same shall be brought into the notice of the Head of Department/Administrative Head of ULBs who will work towards the disposal of the issue. If there is any critical issue involving more than one department/ULB, or where disposal of the matter requires the inputs of another department/ULB, then such a matter will be brought into the notice of the Administrative Secretary/Head of ULB who will ensure that such matters are disposed off expeditiously.
- 1.6. In case of any dispute regarding the handling of case by one or another branch, Senior Law Officer/Law Officer/Head of Legal Branch shall examine the role of branch and shall take a final decision and the branch shall be bound by the same and shall act accordingly.

2. Defence Mechanism

- 2.1. Immediately on receiving the paperbook of a Civil Writ Petition, Civil Suit or Complaint/Claim/Petition, the concerned dealing hand/Senior Assistant shall:-
 - 2.1.1. On approval, issue defence sanction in favour of the Learned Advocate General, Punjab or the Director, Prosecution & Litigation, Punjab as the case may be. (Within two working days) so, that the Law Officer/Advocate concerned shall be able to represent the department in the concerned court. Provided that all the ULBs on receiving the information about a new case shall immediately issue a request letter to the Director Local Government, Punjab for allotment of Advocate to them in all cases of High Court/Supreme Court or all State and

National level Commissions, Forums etc. No advocate shall be appointed without the approval of the Government. Any payment made an advocate without the sanction of the Government shall be viewed seriously. In this regard separative directions have been issued and the same shall be adhered by all the ULBs.

2.1.2. Once the branch issues the defence sanction in any case, it shall be the duty of the Dealing Hand to upload or get uploaded the case on the CCMS portal. It shall be the duty of the Superintendent/Officer in Charge to ensure that the CCMS portal with respect to their branch has all data uploaded and updated in it.

2.1.3. Branch shall examine the claim of the Petitioner/Complainant/ Claimant according to the rules and regulations and shall made a proposal of ground of defence in the case in next five working days. The Concerned Dealing/Senior Assistant shall examine the claim of writ/suit as per rules and regulations and previous decisions taken by the Government or orders obtained finality. Any previous litigation shall also be taken into notice. The proposal shall be counter checked by the Branch Superintendent/incharge as the case may be.

2.1.4. The legal opinion of the Departmental Law Officer may be obtained on any complicated question of law, the same shall tender his advice within three working days or as expeditiously as possible of receiving file. In this regard a clear noting of legal issue shall be highlighted by the concerned dealing hand/Senior Assistant.

2.1.5. The final defence of the case, shall be presented for approval of competent authority on examination of the case as discussed in previous paras.

2.1.6. All these exercises shall be completed within seven working days of receiving of notice/paperbook of the case. In case of any delay, the same should be brought into the knowledge of the Administrative

Secretary or the Director Local Government or head of the ULBs as the case may be.

- 2.1.7. The concerned branch shall themselves submit a draft reply for legal vetting, and for approval of competent authority thereon within next 3 working days. It shall be duty of the branch to examine the reply as per rules and regulations and time to time instructions. The legal branch shall examine the reply on legal issues, and the branch shall be responsible for factual position.

In this way in normal circumstances Branch shall have a final draft reply with them within ten working days, failing which it shall be presumed that due attention is not provided by the branch Superintendent and dealing hand of the file and action may be taken by the Competent Authority.

- 2.2. Final draft reply shall be submitted to the Learned Advocate General, Punjab office immediately for final vetting and the Dealing Assistant shall personally visit for vetting of the case by the Learned Advocate General, Punjab office. On vetting branch shall file the final reply in the office of the Learned Advocate General, Punjab without waiting for date of hearing of the case.
- 2.3. In cases, where there is no such breathing period i.e. case is fixed for a shorter period, the Branch shall make the proposal alongwith draft reply immediately and shall submit for approval of competent authority by hand. The branch shall get it approved, vetted and submitted well within the time period.
- 2.4. Once the same is done, the dealing hand and the Senior Assistant concerned shall ensure that the status regarding the same is updated at the CCMC portal immediately.

3. Supervision of Court Litigation.

3.1. **Supervision by the Branch Superintendent** :- The Branch Superintendent shall have a list of cases dealt by the branch and shall review the matter daily as per the list. It shall be his duty to see whether any additions, rectification etc has to be done in the list. Further he shall also get a list containing the following details prepared by the branch :-

Total No. of CWP,SLPs, Contempt petition, direction cases pending with in Branch Senior Assistant wise
Pending Replies in CWPs, SLPs, Suits
Pending of Compliance of the Contempt Petitions
Pending Replies in Contempt Petitions
Pending Directions within a timeline when their period ends

3.2. **Supervision by Law Officer** :- The Law department shall maintain their own list of the Court Cases and shall share them with the branches regularly. It shall be the duty of the branch to get the cases/litigation updated in the Legal Branch besides highlighting critical cases. Every dealing hand/Senior Assistant shall inform the status or result of the case listed on a date to the Legal Branch at 4:00 PM of the date of hearing and shall help the Legal Branch in updation of the data.

3.3. The Under Secretary at the Secretariat Level and the Branch Officer at the Directorate level shall have a meeting after every 7 days to review the progress of the court cases and sort out any issue. The Commissioner of the Municipal Corporations and the Executive Officer of the Municipal Council/Nagar Panchayat and Improvement Trust will review status of court cases every week and the Additional Deputy Commissioner (Urban Development) shall review the progress of the court cases every 15 days and sort out any issue immediately.

3.4. The Administrative Secretary/Special Secretary shall atleast once every 15 days review the progress of the pending litigation within the Department.

3.5. All cases that are reviewed must be updated on the CCMS portal. It shall be the obligation of the Legal Branch to ensure that CCMS portal is reviewed periodically and they ensure that the branches are updating data on the same. In case it is not being done regularly as in time, the matter be brought to the knowledge of Administrative Secretary/DLG/Head of ULB as the case may be.

4. Standard Operating Procedure for filing Appeals/ LPA before the High Court or SLP before the Supreme Court

4.1. Appeal Provisions (a) Against the order of the single bench of the High Court, appeal can be made to the Division Bench of the High Court or in case of a decisions of Division Bench of High Court to the Supreme Court a Special Leave Petition under article 136 of the Constitution of India. (b) Civil Appeal against any order passed by the any Forum or Commission or Tribunal relating among other things to concerned appellant authority as the case may be.

4.2. Limitation for filing Civil Appeal/ Special Leave Petition (a) The limitation prescribed under the Supreme Court Rules, 1966 for filing Civil Appeal before the Supreme Court against the order is 60 days from the date of receipt of the order. (b) In a case where the High court on its own motion or on an oral application made by the aggrieved party, immediately after passing of the judgment, certifies the case to be fit for appeal to the Supreme Court, a Civil Appeal is filed against the High Court order. However, in most of the cases no such application is made by the aggrieved party before the High Court and therefore, in such cases, if aggrieved party intends to agitate the order / judgment of the High Court before the Supreme Court, then it can be done by way of filing a Special Leave Petition under Article 136 of the Constitution. (c) The limitation for filing of SLP is 90 days from the date of the High Court's order. The time taken by the Court from the date of filing of application for certified copy

of the order till the copy is ready for delivery is excluded from the computation of the period of limitation. (d) The delay in applying for the certified copy of the order is attributed to the Department/party. Therefore, the procedure for obtaining the certified copy of the order of High Court should be initiated immediately on pronouncement of the order,. It shall be impressed upon the dealing assistant that it is their responsibility to apply for the certified copy of the order in time and to ensure that it is sent to the Department/ULB immediately.

- 4.3. Forwarding of proposal to file Civil Appeal,LPA / SLP (a) All the proposals to file CAs,LPA/SLPs should be sent by the branch only after obtaining the concurrence of the Competent Authority. (b) The proposal for filing of Appeal,LPA/SLP before the Supreme Court against the order of Tribunal/ High Court respectively, should be sent to the Learned Advocate General, Punjab Office: within 7 days of the pronouncement of the order. (c) All the proposals should invariably be sent along with all required documents and prescribed forms. (d) The branch should ensure that the time limit prescribed is strictly adhered to. (e) Serious view would be taken, if the proposal is received beyond 20 days of the receipt of the order/ date of the order of the High Court or other courts or different forums etc. (f) Similarly, the orders should be examined within the prescribed time without waiting for the recommendations of proposal for filing appeal before the High Court/Supreme Court or any other Commission or Forum etc should be sent as stipulated supra. (g) In cases, where the proposals are sent with delay beyond the prescribed period, the office should, along with the proposal, indicate the reasons for the delay. (i) Where the proposal is sent belatedly (beyond 30 days) or where Government revenue is involved, the appeal proposal should be sent through a special messenger. Such messenger should preferably be an officer well conversant with the case. (j) In matters relating to challenge to

constitutional validity of certain provisions of the statute, compliance of the directions of the Tribunal / High court within certain time less than the period of limitation, filing of contempt petitions against the Department/ULB and matter of larger departmental interest etc, and the proposal should be sent through a well conversant officer.

5. Inter Departmental Advice/Issues:- Any issue which requires inter departmental clarification/advise shall be taken by the Branch Level after taking approval of the competent authority and then shall be referred to the other department after following due procedure established by Law. The comments/advise should be obtained by the Branch as expeditiously as possible but in no case later than one week. If it is delayed than beyond the period the concerned will bring it in the knowledge of the Officer/AD concerned.

6 General :- 1) Updation by the Branch/ULB at CCMC portal is a must and has to be done expeditiously.

6.1 Branch, Officer In charge to review the Court Case issue timely.

6.2 Replies in no case should be pending beyond 10 days in routine cases and 15 days in technical cases. Dealing and Branch Superintendent shall be personally responsible for the same in normal circumstances.

6.3 In case of any ambiguity, the competent authority shall issue separate instructions depending the facts and circumstances of the case to sort out any issue.

6.4 This SOP shall be applicable to all the ULBs under the control of the Department of Local Government and it shall be the duty of all these ULBs to implement the SOP with changes as per their hierarchy of approval. The timelines shall in no case be amended. It shall be applicable immediately on final notification of the same.

6.5 For any issue involving a particular policy decision or its implementation or any matter which requires the approval of the Government, it shall be the

duty of the ULB to get approval of the Government regarding any policy decision or issuance any order in this regard or any decision applicable on more than one ULB or affecting a State Policy. It shall be the personal responsibility of the officers and officials for not deviating in this regard. Any decision of any court of law against the ULBs be brought to the knowledge of the Government before implementation.

6.6 It shall be the responsibility of the Branch to co operate with the legal cell and comply with the instructions that may be issued for the improvement of overall efficiency in this regard.

7 Managing the Replies to be filed in the Hon'ble Courts –Timelines

regarding:- For the purpose of effective disposal of these matters, the following timeline has been prescribed, all the branches, Branch Officers shall ensure that these timelines are strictly adhered to.

Sr No	Issue	Timeline	Remarks
1	Defence Sanction in Writs, Suits etc	Within 2 days from the date of receiving of the writs, suits etc	Superintendent/Branch Officer to ensure timely compliance
2	Filing of Replies	Within ten days from the date of receipt of summons/DO or any other way of receiving information.	Superintendent/Branch Officer to ensure compliance and legal branch to monitor In case of urgent matters as soon as possible
3	Filing of Additional Reply etc	Within 10 working days from the date of	Superintendent/Branch Officer to ensure compliance and Legal

		orders	Branch to Monitor the same. In case of urgent matters as soon as possible
4	Appeal/LPAs/SLPS	Decision whether to file appeal or not shall be done immediately and as Most Urgent file. Once decided to file appeal, branch to adhere to limitation period provided under the different laws as applicable to the case.	The concerned Superintendent/Branch officer shall be responsible in this regard and they shall be responsible for each day beyond the stipulated period of limitation.

8 Standard Operating Procedure for filing CAVEAT/ counter-affidavit

in High Court etc:- Following procedure needs to be followed by the jurisdictional officers in the cases where the High Court/Forum have given the order in favour of the Department. (a) After the pronouncement of the order branch shall obtain the certified copy of the said order and examine the same to decide further course of action. i. In case branch proposes to file a CAVEAT in the Supreme Court/High Court, it shall forward a proposal with detailed reasons for making such a proposal.

9 Monitoring of the cases coming up for hearing – After the Counter-affidavit has been filed, the Branch shall continue to watch the cause list /advance cause-list for cases filed against the Department to come up for hearing for admission. Regarding the cases which have been admitted and converted into Civil/Criminal Appeals, the branch shall also watch the cause-list/advance cause list for such appeals to come up for regular hearing.

10 Compliance of directions of Hon'ble court Directions issued by the Hon'ble Courts must be complied with, within the time allowed. The Branch Superintendent/in charge shall personally ensure compliance of the directions relating to Dasti service, filing of counter or rejoinder affidavit or other directions, to avoid adverse observations.

11 Responsibility to ensure timely processing of Counter-affidavit/other procedures :- The Branch shall ensure timely processing of caveat application and counter-affidavit and their submission to the courts as per the timelines given. Any deviation from the timelines will have to be duly explained and delay occurring without any reasonable cause or due to negligence would be viewed adversely and its liability shall fall with the Branch concerned.

12 Judgments or interim order of High Court containing strictures etc. Judgments or interim order of the High Court containing strictures or which are contrary to Government orders, notifications, instructions, circulars etc. shall be brought to the notice of the Competent Authority immediately by the Branch. The branch or ULB shall file appeal wherever required. Or any judgement or interim order which can be implemented or decided to implement, the Branch or ULBs as the case may be shall make all compliances in time bound manner to avoid contempt of court or adverse order of any court etc.

13 Assistance to Law Officer of office of Advocate General, Punjab (a)
The Branch should ensure that whenever the Law Officer of office of Learned

Advocate General, Punjab seeks Instructions / clarifications in a case, the same are attended to by the officers concerned promptly. The counsel should be briefed properly to strengthen case. (b) The branch officer should personally monitor the cases involving intricate issues of facts / law having wide ramifications or involving high revenue stake.

14 Procedure to Deal with Legal Notices :- Section 80 of the Code of Civil Procedure, 1908, Section 396 of the Punjab Municipal Corporation Act, 1976 and other different laws requires that before initiating any legal action, the Department/ULB concerned must be given a notice. In addition to it employees use to issue a Legal Notice before filing a Civil Writ Petition. Usually such notices are sent by the aggrieved parties or through the counsels to the Department/ULBs. In such cases as soon as the notice is received in the branch, the branch will immediately take steps to process the legal notice. The legal opinion (if any to be taken), technical opinion (in case of technical issue) shall be taken by the branch within one week. Efforts shall be made by the Branch Officer to respond to the notice promptly but in no case later than time given in the legal notices.

15 Grievance Redressal Mechanism :- Since this Department is framing its SOP keeping in mind the Litigation Policy made by Punjab in the year 2018, efforts are to be made to settle the grievances. Parameters prescribed in the litigation policy shall be adhered to and any cases which has been decided before on the basis of the any Court orders etc shall be placed before the Department Litigation Committee to see whether the same has to be adopted or any other action has to be taken in this regard.

16 Authorities Competent to give Instructions :- Before filing of any reply there may be a situation that there may be a possibility of giving prior information to the Learned Advocate General office to assist them in a particular case which can be used as statement in Court. In such a case, in

ordinary matter the branch Superintendent may give information himself or through the Dealing Assistant after approval of Competent Authority. In Technical and important cases, written information may be sent to the AG office. All Information must be approved by the competent authority and the letter issuing authority must not be lower than the rank of Superintendent.

17 Applicability:- This SOP shall be applicable to all Secretariat, Directorate branches of the Department of Local Government, Punjab including offices of Additional Deputy Commissioner (Urban Developments) and Urban Local Bodies including Improvement Trust under the control of the Department of Local Government, Punjab.

18 Savings: Nothing in this SOP shall prevent any instructions of the Government of Punjab that is inconsistent with the SOP from being applicable to the Department of Local Government.

Principal Secretary to Government of Punjab
Department of Local Government

Endorsement No:-SLO/DLG-2022/2383-2593

Date:-7-01-2022

Copy to the following for meticulous compliance:-

1. All Commissioners, Municipal Corporations in State of Punjab.
2. All Additional Deputy Commissioner (Urban Development) in State of Punjab.
3. All Executive Officers, Municipal Council/Nagar Panchayat's/Improvement Trust in State of Punjab.
4. All Superintendent's/Branch Incharge Secretariat and Directorate Branches, Department of Local Government, Punjab.


Senior Law Officer
Department of Local Government