

GOVERNMENT OF JAMMU AND KASHMIR
DEPARTMENT OF LAW, JUSTICE AND PARLIAMENTARY AFFAIRS
(Establishment Section) Civil Secretariat
Srinagar/Jammu.

Subject:- Litigation Reforms and effective monitoring of Litigation in Union Territory of Jammu and Kashmir – Assignment of Role and Responsibilities to the Government Counsels for Handling Government Litigation in various Hon'ble courts and legal forums.

Reference:- Administrative Council Decision No. 35/4/2021 dated 10-03-2021.

Government Order No: **1678** -JK(LD) of 2021.
Dated : 24 - 03 - 2021.

In pursuance to the above referred Administrative Council Decision, sanction is hereby accorded to the assignment of the following duties and responsibilities to the Government Counsel (s) for handling Government Litigation in various Courts/Tribunal/Legal for a:-

- (i) The Government Counsels shall be prompt in drafting of objections/Affidavits/LPAs and statement of facts on receipt of factual note from the department. Since drafting is the backbone of the litigation as such the drafting of pleadings should be in compliance with the settled norms and taking into consideration the recent developments of law. The pleadings are to be drafted carefully. The application for condonation of delay shall also be drafted carefully, identifying the areas and causes of delay, after receiving the inputs from the concerned OIC/ Law Officer. Casual drafting shall be viewed seriously for reviewing the performance of Government counsels.
- (ii) The Government Counsels as far as practicable, shall file consolidated reply after receiving inputs from all concerned departments. The reply shall be filed by the main contesting department on behalf of all the official respondents.
- (iii) They shall not give any assurance before the court without consulting Administrative Department and if in any case, it is found that any Government Counsel had made any commitment before the Court without consulting Administrative Department or the Law Department, the matter shall be immediately reported by OIC/Law Officer and the serious action against the Government Counsel should follow, which even may entail his disengagement.

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- (iv) The Government Counsels should not resort to unnecessary adjournments. In extreme cases, if instructions are required to be received from the concerned departments, the Government Counsels should contact the, Head of Department, OIC or Law Officer as the case may be. The same procedure should be followed in Appellate courts also. Adjournments should not become a routine course.
- (v) It has been observed that most the cases are not being disposed of on merits. The cases are being disposed of with consent of Government Counsel with the direction to consider the claim under rules. This practice needs to be discontinued forthwith, as it often leads to endless litigation. The Government Counsel should argue and contest the cases for determination of the issues and rights of parties.
- (vi) It shall be the duty of the Government Counsel to inform the department if the factual report and all other necessary assistance/record is not received by him in time
- (vii) The Government Counsels shall appear in Court with adequate preparation.
- (viii) The Government Counsel shall inform the OIC/Law Officer regarding any direction/order of the Court on daily basis.
- (ix) They shall apply for the copy of the order promptly on the same day or latest by the next working day
- (x) The Government Counsels shall, on date of receipt of the order/judgment, forward the same to the Department of Law, Justice and Parliamentary Affairs and to the concerned department, specifically indicating therein (i) date of application for certified copy, and (ii) date of receipt of judgment, along with his concrete opinion on merits of the case, as to whether the case is fit for filing of appeal or not. In both cases i.e filing of appeal or implementation of the Judgment, reasons should be clearly recorded by the Government Counsel.
- (xi) The Government Counsels whether at High Court Level or Subordinate Courts shall discharge their obligation with the sense of responsibility towards the court as well as to Government. Since they are bridge between the Government and the Court, they shall follow code of conduct towards their client i.e Government.
- (xii) Two *proforma* as set out in Annexure - GA-I & GA-II have been devised to monitor their performance and review the litigation of the departments pending in Hon'ble Courts. The Government Counsels shall furnish information of cases on daily basis through Director Litigation Jammu/Kashmir respectively and fortnightly to



the Department of Law, Justice and Parliamentary Affairs on a devised proforma.

- (xiii) The Government Counsel (s) shall furnish weekly/department wise advance list of cases on each Friday or Saturday as the case may be on a devised proforma GA-III with specific reference to the steps/remedial measures required to be taken in all these matters.
- (xiv) The Government Counsels shall also perform such other duties as may be specified from time to time by the Law Department.

Explanation:- The Government Counsels shall mean and include Additional Advocate General, Deputy Advocate General, Government Advocates and Standing Counsels appointed/engaged by the Department of Law, Justice and Parliamentary Affairs. However, in cases/departments assigned to Ld. Advocate General, a Government Counsel to be nominated by him shall submit requisite information in prescribed proforma.

By order of Government of Jammu and Kashmir.

Sd/-

(Achal Sethi)

Secretary to Government.

Dated:- 23 -03- 2021.

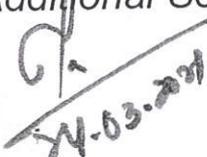
No: - PS/LS/2021/40.

Copy to the:-

1. Learned Advocate General, J&K Jammu.
2. Director General of Police, J&K Jammu.
3. All Financial Commissioners.
4. All Principal Secretary to Government.
5. Principal Resident Commissioner, New Delhi.
6. Principal Accountant General, J&K Srinagar.
7. Principal Secretary to the Hon'ble Lieutenant Governor, Raj Bhavan.
8. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
9. Commissioner/Secretary to Government, General Administration Department.
10. All Commissioner/Secretary to Government.
11. Divisional Commissioners, Kashmir/Jammu.
12. All Deputy Commissioners.
13. Register General, J&K High Court, Jammu.
14. Principal Secretary to the Hon'ble Chief Justice, J&K High Court.
15. All Head of Departments/Corporations.
16. Secretary, J&K Public Service Commission, Jammu.
17. Secretary, Service Selection Board, J&K Jammu.
18. Director Finance, Department of Law, Justice and Parliamentary Affairs.
19. Director Information, J&K Jammu.
20. Director Litigation, Jammu/Kashmir.
21. All the Special/Additional Secretaries/Senior Law Officers/Public Law Officers/Legal Assistants/Junior Legal Assistants for compliance.
22. Private Secretary to the Chief Secretary for information of the Chief Secretary.
23. All Law Officers representing the Union Territory of Jammu and Kashmir before the Hon'ble High Court at Jammu/Kashmir.
24. Private Secretary to the Secretary to Government, Department of Law, Justice and Parliamentary Affairs for information of the Secretary.
25. Website of the Department of Law, Justice and Parliamentary Affairs.
26. Government order file.
27. File concerned.

(Ashish Gupta)

Additional Secretary to Government.


24-03-2021

Proforma GC-1

To be provided by Govt. Counsels through Directorate of Litigation (on daily basis)

Name of the Counsel

Name of the Department assigned

High Court of J&K Srinagar/ Jammu

Date:-

(1)	S. No.	
(2)	Case No.	
(3)	Title of the case	
(4)	Name of the Court/Judge where the case was listed.	
(5)	Whether the pleadings of the case were complete, if not reasons thereof.	
(6)	If case adjourned or time was sought by the Departmental Counsel for arguments, reasons for extension of time or adjournment or thereof.	
(7)	Orders/Judgment if any passed by the Hon'ble Court or Tribunal on the date of hearing. If yes, provide details.	(in case of adverse orders specific details thereof..)
(8)	Whether the Department concerned informed of Order/ adverse order, if yes details of the officer/official and mode:(email etc)	
(9)	Whether Department/AG Office provided notice of Law Department for assistance/file in the case, if not, sanction to the Government or Policy decision of the Govt or work has been stalled.	
(10)	Whether case required to be brought to the notice of Law Department for sanction to the higher forum. If yes, reason thereof.	
(11)	Whether case involves huge financial implication or Policy decision of the Govt or work has been stalled.	
(12)	Remarks	

Proforma GC-II

Counsel Performance
to be submitted to Department of Law, Justice and PA.
(on fortnightly basis)

(1) Name of the Counsel	(2) Name of the Department(s) assigned	(3) Appearances before the Court.	(4) No. of adverse/coercive orders passed against the departmental functionaries.	(5) No. of orders/Judgments passed against the Government/Depar tment.	(6) Whether comments/views where furnished to the department(s) on such judgments/orders, if not reasons thereof.	(7) No. of Appeals successfully defended before the Hon'ble High Court.	(8) General assessment	(9) Remarks
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Proforma GC-III

To be provided by Govt. Counsel
through Directorate of Litigation
(on the date issuance of weekly cause list)

Name of the Counsel _____

Name of the Department _____

High Court of J&K Srinagar/ Jammu

Date:-

(1) S. No.	(2) Case No. with Title.	(3) Court No. and Serial No. in the Cause List.	(4) Whether pleadings are complete.	(5) Whether there is apprehension of passing of adverse orders against Department in the case.	(6) Steps required to be taken by the department	Remarks
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