

13/A

Government of India
Ministry of Defence
D(CMU)

Subject:- Delay in filing reply/counter-affidavits causing inconvenience to the Court- regarding.

Ministry of Law and Justice, Department of Legal Affairs vide their D.O. letter No. 35(1)/2015-Judl dated the 27th August, 2015 & OM No. F35(1)/2015-Judl dated 18th August, 2015 has brought to light the observation made by the High Court of Madras vide Order dated 29.06.2015 passed in WP No.13835 of 2015- E. Seshan Vs Union of India regarding delay in filling of the counter affidavit which causes inconvenience for court.

2. A copy of the D.O. letter and OM received from Ministry of Law & Justice is forwarded herewith for information and strict compliance. As observed in the DO letter & OM, it may be ensured that the replies/counter affidavits are filed in time in the courts to avoid adverse orders or imposition of cost by the Courts.

रक्षा (क्यू. एंड सी.) अनुभाग
शायरी सं. 1.6.7.3
दिनांक 02.09.15

Encl: As above

(R. Pandiyan)
Deputy Secretary (PCC + MIS)
Tel.23013416

All Joints Secretaries, Director/Dy. Secretaries in the MoD.
MoD ID No.4948/2015/D (CMU) dated 14.09. 2015.

Pl circulate to
all officers
13/10

Swaraj
US (OCU)
US (4)

US
15/9

Sh. PK
16/9/15
MoD/CA&J

DD (C&J)
Inform all

11.10

Ref: as above

2. A copy of the same along with its enclosures is forwarded herewith for further necessary action/strictly compliance.

DGDE (Sh. G. Vijaya Bhaskar, DDO (Coord))

MoD ID No. 21 (1) / 2015 - O (CA&J) dt: 06/10/2015

10/10/15
D(C&J)

New Delhi, dated the 18th August, 2015

OFFICE MEMORANDUM

Subject:- Appointment of Nodal Officer for the purpose of conducting litigation/notices received under section 80 CPC - regarding

The undersigned is directed to refer to the observations made by the High Court of Madras vide order dated 29.6.2015 passed in WP No. 13835 of 2015-E. Seshan vs. Union of India, which reads as under:-

"we are given to understand that once a matter pertains to a particular Ministry, the 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."

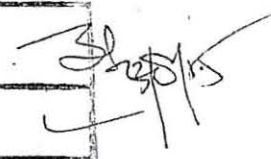
"We call upon the Law Secretary to look into the matter for the purpose of ensuring a better coordination and put the officers concerned to notice, that this Court would have no other option, but to impose exemplary costs for the delay in filing the counter-affidavits and that costs would be recovered 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."

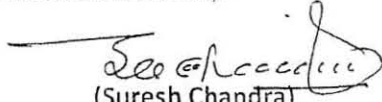
2. In this regard, reference is made to D.O. letter No. 403/1/208-CA.V/TS dated 19th November 2009 (copy enclosed) of the Cabinet Secretary on the subject cited above and to inform that various Ministries/Departments are not sending the names of Nodal Officers in their Ministries/Departments after the retirement/ transfer of existing Nodal Officers and therefore, the list of Nodal officers uploaded in the website could not be updated and in absence of the same, it becomes difficult to get the correct phone No./address of the Nodal Officers concerned to pass on necessary information.

3. It is therefore, requested that the name and designation of the existing Nodal officer dealing with litigation/notices received under section 80 CPC along with address, Phone number, Fax and email ID of the Ministry/Department concerned may be provided at the earliest so that the list of Nodal officers is updated by this Department. It may be ensured that the replies/counter affidavits are filed in time in the courts to avoid adverse orders or imposition of cost by the Courts, besides, whenever a Nodal Officer is changed, particulars of new Nodal Officer may be intimated immediately.

20/8
 SLD
 AS (PCC+MIS)
 Defence Secy's Office
 Diary No. 14925
 Date 20-8-15
 Office of U.S. (E/PG)
 Ministry of Defence
 Dy. No. 2048
 Date 21/8/15

SEEN

Dy. Secy. (PCC+MIS) 3726	24/8	
US (O&M)/PG/CMU) 50 cmw		


 (Suresh Chandra)
 Joint Secretary and Legal Adviser (Judl.)

To
 Secretaries to All Ministries/Departments of the Govt. of India.

4948/DCMU/2015
 dt. 27/08/2015

D.O. No.403/1/1/2008-CA.V/13



K. M. CHANDRASEKHAR

मंत्रिमंडल सचिव
CABINET SECRETARY
NEW DELHI

November 19, 2009

Dear Secretary,

The Hon'ble Supreme Court in Salem Advocate Bar Association, Tamil Nadu V/s Union of India has, *inter-alia*, given certain directions in regard to the provisions of section 80 of the Code of Civil Procedure 1908. As part of the said directions, the Ministries/ Departments of the Government of India were required to nominate nodal officers in their Ministry/ Department to deal with litigation. Accordingly, on the basis of inputs made available by the various Ministries/ Departments, a list of nodal officers was drawn up and hosted on the official website of the Ministry of Law & Justice (<http://lawmin.nic.in/la/liaison.htm>).

2. As part of a routine check up, an attempt was made by the Cabinet Secretariat to contact some officers nominated as nodal officers. It was found that some of them were on leave and some officers reportedly stated that they are acting as nodal officer only for cases handled by their sections and not for the whole Department. Another officer is reported to have stated that he has been appointed as nodal officer for one case only.

3. This state of affairs is far from satisfactory and does not comply with the direction of the Supreme Court. In order to streamline the management of Government litigation in the Supreme Court and the High Courts and to ensure that timely action is taken by the various Ministries/ Departments in dealing with litigation, it is considered necessary that:

- (a) An officer must be designated in each Ministry/ Department as a nodal officer not only for the purposes of conducting litigation, dissemination of information in litigation and coordination of all the persons concerned but also for preparing para-wise remarks, filing of counters, filing of appeals, etc.
- (b) These nodal officers should be senior level officers of the level of Joint Secretary or above who shall act as Nodal Officers for all court cases in their Department irrespective of whether the subject concerned falls within their area of business or not

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(c) The names of the nodal officers must be communicated to the Secretary, Department of Legal Affairs, Ministry of Law and Justice, Office of the Ld. Attorney General of India and the offices of the various law officers attached to the various High Courts.

4. This may be given the highest priority. Action taken may kindly be intimated to me by 30.11.2009.

With regards,

Yours sincerely,



(K.M. Chandrasekhar)

Sh. D.R. Meena,
Secretary,
Deptt. of Legal Affairs,
New Delhi

प्रेम कुमार मल्होत्रा
स. व.
P. K. Malhotra
Secretary



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

S E E N

Dy. Secy. (PCC+MIS) 4019 719	
US (O&M)/PS/CMU)	
US (PCC)	

So (CMU)
as directed
by DS (PCC+MIS)
08-9-15

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.

3/7
JL (ET)
Office of D.S. (PCC+MIS)
Ministry of Law & Justice
Dy. Secy.
Date: 9.5.15
DS (PCC+MIS)
का. ० रखा सचिव 15-3-68
डापरी सं० 28-5-14
दिनांक.....

DS (PCC+MIS)

Handwritten signatures and initials, including "DS (CMU)" and "08-9-15".

U.S. (O&M)/PS/CMU)
Diary No. 735
Date 08/09/15
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.