



भारत सरकार / Government of India

सरकारी राजपत्र OFFICIAL GAZETTE

संघ प्रदेश दादरा एवं नगर हवेली तथा दमण एवं दीव प्रशासन
U.T. ADMINISTRATION OF DADRA AND NAGAR HAVELI AND
DAMAN AND DIU

श्रेणी - २
SERIES - II

प्राधिकरण द्वारा प्रकाशित / PUBLISHED BY AUTHORITY

Daman 15th October, 2021 23 Ashvina, 1943 (Saka) No. : 38

Police Department,
Administration of Dadra and Nagar Haveli and Daman & Diu, (U.T)
Office of the Dy. Sudpt. Of Police (HQ),
Police Headquarters, Dunetha,
Daman & Diu, Daman

No. PHQ/Est-II/Pers. File/2021/1676-2290837

Dated :- 21/09/2021

Read :- Application Dated:- 24/06/2021 from Shri Makwana Nayan Bhagvandas, Police Constable
BKL. No. 351 of CPS Moti Daman, Daman

ORDER

The approval of the Competent Authority is hereby conveyed for change of name in Official records of “NAYAN BHAGVANDAS MAKWANA” Police Constable of Police Department, UT Administration of Dadra and Nagar Haveli and Daman & Diu. It is hereby ordered that the name of “NAYAN BHAGVANDAS MAKWANA” recorded in the Government records/documents may be read as “NAYAN BAGOANE” instead of “NAYAN BHAGVANDAS MAKWANA”.

This is issued with concurrence of the Secretary (Pers.) vide diary No. 770390, dated :- 31/08/2021 and approval of the Superintendent of Police being appointing authority vide diary No. 773256, dated :- 02/09/2021.

Sd/—
Dy. Sudpt. Of Police (HQ),
Police Head Quarter,
Daman.

**U.T. of Administration of DNH & Daman & Diu,
O/o. the Dy. Secy-cum-Director (Education),
Fort Area, Moti Daman.**

No. DS/EDN/DMN/Change of Name/2021-22/843

Dated : 28/09/2021.

Read : Application Dated: 30/04/2021 from Smt. Ushaben Amrutlal Patel, MTS (Peon), working under the Assistant Director of Education (Ele. Edn), Dist. Panchayat, Daman.

ORDER

On the basis of the records furnished by **Smt. Ushaben Amrutlal Patel**, MTS (Peon), it is hereby ordered that the name of Smt. Ushaben Amrutlal Patel be changed as “**USHABEN ISHWARBHAI PATEL**” instead of Smt. Ushaben Amrutlal Patel in the service records of the personnel.

Necessary entry to be made in the service book of the personnel.

This is issued with the approval of the Advisor to Hon’ble Administrator, DNH and Daman & Diu/Appointing Authority, vide diary No. 763608, dated: 12/08/2021.

Sd/–
(NILESH GURAV)
Deputy Secretary-cum-
Director (Education)
DNH and Daman & Diu.

**U.T. Administration of Dadra & Nagar Haveli and Daman & Diu
Department of Law & Justice
Vidyut Bhawan, Daman-396220.**

NO. LAW/DMN/NLP/5.2011/453

Dated: - 15/10/2021.

NOTIFICATION

In pursuance to the letter NO.44(03)/2010-Judl. dated 30th June, 2010 of Ministry of Law & Justice, Govt. of India and the direction of the Hon’ble Supreme Court vide order dated 19/11/2010 in Special Leave to Appeal (Civil) No(s). 29275/2010 in State of Jharkhand & Ors. Vs. Krishna Pradhan & Ors, the U.T. Administration of Dadra & Nagar Haveli and Daman & Diu has framed a Litigation Policy namely “Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021”. The Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021 is as follows: -

**U.T. Administration of Dadra & Nagar Haveli and Daman & Diu
Department of Law & Justice**

Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021.

1. INTRODUCTION

- 1.1. The Constitution of India guarantees to secure to all its citizens **Justice**, social, economic and political. The Union Territory of Dadra & Nagar Haveli and Daman & Diu honors the rights of all citizens and endeavors to protect them. Speedy, time bound and equal justice at all level is the policy and priority of the U.T.
- 1.2. Pursuant to the recommendation of 13th Finance Commission and the resolution adopted at the National Consultation on “Strengthening the Judiciary towards reducing pendency and delay” held on 24.10.09, the National Litigation Policy was framed which in turn led to framing of the Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021.
- 1.3. The statistics of the litigation reveals that U.T. is the pre-dominant litigant in the Courts contributing the major share of the pending litigation. This Litigation Policy is an endeavor to manage/mitigate the Litigation in this U.T. in an efficient and responsible manner to minimize the U.T’s contribution by curbing the U.T. litigation so that, Courts may get more and sufficient time and execute the qualitative law and justice for other pending cases. Upon a critical preview of present litigation scenario and a comprehensive deliberation on various issues related thereto, it is felt that a clear, comprehensive, efficacious and coherent policy is the need of the hour for effective management of U.T. litigation at various levels from District to Union Territory and National level. It is with the above purpose a new Policy, “The Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021” brought into effect.
- 1.4. The circulars issued by the Law Department from time to time, shall remain in force to the extent this document is silent and shall be followed in the spirit of this policy.

2. OBJECTIVES

- 2.1 In consonance with the National Litigation Policy, the Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021 aims to evolve a comprehensive scheme and mechanism along with effective strategies to bring about desired improvement in the manner litigation is managed and conducted by the U.T. and to transform the U.T. into an efficient and model litigant.
- 2.2 This Policy reflects the resolution of the entire U.T. to bring about a visible and enduring qualitative and quantitative improvement in the manner in which litigation is perceived, managed and conducted in the U.T. It embodies the national concern that pendency and delay in our Courts should be proactively reduced by the U.T. Administration.

- 2.3 The Hon'ble Supreme Court has repeatedly expressed the view that the statutory authorities should be model litigants and not put forth false, frivolous, vexatious and technical contentions to obstruct the path of Justice. Vexatious and unnecessary litigations have been clogging the wheel of Justice far too long, making it difficult for Courts and tribunals to provide easy and speedy access to justice to bona fide and needy litigants. Statutory authorities exist to discharge statutory functions in public interest therefore, they should be model litigants.
- 2.4 With a view to become an efficient and model litigant, the U.T. shall be guided by the following principles:
- (i) The U.T. shall manage and conduct its litigation in responsible, sensitive, efficient and time bound manner.
 - (ii) Cases which can be resolved by having recourse to Alternative Dispute Resolution Mechanism (ADRM) i.e., mediation, arbitration, Lok Adalats etc. will be resolved through such mechanism only. The Alternative Dispute Resolution Mechanism will be encouraged as cost effective and time saving mode of settling legal disputes.
 - (iii) Management and conduct of litigation shall be done in a coordinated, time bound and cohesive manner.
 - (iv) Objections on extremely technical points will be avoided by the U.T. unless the same goes to the root of the matter.
 - (v) Litigation shall not be resorted to, for the sake of litigation.
 - (vi) Endeavour shall be made to withdraw in fructuous and petty cases by periodical scrutiny of the pending cases.
 - (vii) U.T. should be represented by competent Counsels.
 - (viii) Bonafide decisions and actions of the U.T. Administration and the Government Servants under the administrative control of the U.T. Administration at the time of the occurrence of the incident concerned shall be defended against vexatious and frivolous complaints, investigations, litigations, etc.

3. APPLICABILITY

- 3.1 This Policy shall apply to any claim, dispute and litigation involving the U.T. or its functionaries before Courts, Tribunals, Arbitration and Alternative Dispute Resolution forums (including any other quasi-judicial or legal authority).
- 3.2 It shall be mandatory for all departments/Offices/autonomous bodies in the U. T. of Dadra & Nagar Haveli and Daman & Diu to follow this Policy.

- 3.3 The Policy shall serve as the authoritative reference for all questions of procedure, norms and interpretation in relation to management and conduct of litigation at all stages & forums.

4. THE STAKE HOLDERS

4. All stake holders i.e., Government Departments and their functionaries including the Nodal Officers, Counsels and officials entrusted with the responsibility relating to control, supervision, management or conduct of litigation, will have to play their respective role/part with utmost sincerity, dedication/commitment in effectively implementing this Policy.

5. LEGAL CELL

- 5.1 Administrative orders issued in day-to-day working are often challenged in Courts. To minimize such litigation, administrative orders need to be in conformity with the relevant Acts, Rules, Notifications and Judicial pronouncements. To advise the Administrative Departments instantly, on law points, officers from Legal Service may be deployed in every department/ two or more departments. The U.T. shall endeavor to strengthen the legal cells in all departments by providing adequate infrastructure and deploying adequate number of officers of appropriate rank as per the need of the department, depending on the quantum and nature of the litigation.
- 5.2 A Legal Cell, if so required, comprising officer of Legal Service of appropriate rank shall be established at District level to ensure proper coordination between all the departments collectively and the Government Counsels. Moreover, another important function that these Legal Cells can also perform is to coordinate between different departments/ instrumentalities/concerned officers etc. for the litigation. Especially where different departments of districts or different districts authorities are impleaded in any matter, the Legal Cell can perform as a centralized coordination hub between Government Counsels and U.T. instrumentalities, which will in turn result into speedy follow up and disposal of matters.
- 5.3 For speedy decision and effective monitoring of litigation, the officers of Legal Service shall be directly subordinate to the Head of the department and Secretary of Administrative Department concerned.
- 5.4 The legal cell shall be responsible for: -
- (i) providing instant advice on law points, in day-to-day administrative functions, as and when required;
 - (ii) monitoring litigation of the department concerned and providing aid to the Nodal Officer of the department including preparation of nitty-gritty of the case, brief notes relating to relevant laws, departmental rules and precedents/analogous of similar cases decided finally or pending before the Courts.

- 5.5 The Administrative Departments, where Legal Cells do not exist, will create so.
- 5.6 Necessary infrastructure and man power will be made available by the Administrative Department concerned to the Legal Cell for discharging their duties effectively.

6. NODAL OFFICERS

- 6.1 Every Department at level and each Head of the Departments shall appoint a Nodal Officer. The duties and responsibilities of the Nodal Officers shall inter alia include regular monitoring, coordination and effective management of litigation pending before various Courts and Tribunals. Nodal Officer shall pay special attention to curb delay in filing appeals/petitions within time and in particular, identify cases in which repeated adjournments are being taken at the instance of the department for instructions or filing reply and report such cases of repeated and unjustified adjournments to the Head of the Department.
- 6.2 The Head of Department or Officer of the Legal Service posted in the Department shall examine relevant records and ensure that the record of the case justify the reasons for adjournments. If there are repeated adjournments, serious note will be taken of it and negligence or default on the part of officer-in-charge concerned will be dealt with appropriately by the competent authority. It shall be open to the Head of the Department to call for reasons for such adjournments.
- 6.3 All Head of the Office shall be designated as a Nodal Officer of his concerned offices. If the number of cases of an Administrative Department exceeds 10, the work of Nodal Officer shall be assigned to an officer independently by the Head of the Department.
- 6.4 The Nodal Officer shall maintain a record of the cases pending in Courts, related to his department, such record shall be maintained Court wise and in the format prescribed by the Law Department so that cases may be tracked conveniently.
- 6.5 It has been observed more often than not that the Nodal Officers either do not appear in Courts or appear without due preparation. The basic reason is incomplete record of pending litigation with the Administrative Department and improper briefing to the Counsel for the U.T. This not only causes inconvenience to the Court but also adversely affects the U.T. interest. The Nodal officer shall ensure that the relevant record of the case is provided to the Counsel without delay.
- 6.6 The factual reports and brief note shall be placed on the file in the formats prescribed by the Law Department.
- 6.7 The Nodal Officer shall get the CCMS (Court Case Management System) updated regularly. Nodal Officer shall be provided adequate staff (including IT personnel for CCMS updates)

for keeping the records updated, facility of internet and phone for proper communication and collecting necessary information.

- 6.8 The e-mail address and phone numbers of the Nodal Officer shall be available and accessible to the Counsels for the U.T. and vice-versa. The Law Department shall also maintain record of all the Nodal officers and Counsels for the U.T.
- 6.9 The Nodal Officer shall also perform such other duties as specified from time to time by the Law Department.
- 6.10 The Law Secretary shall hold meetings of the Nodal Officers at least once in six months to get feedback on the status of U.T. litigation, share the experiences of individuals, pin point the genuine difficulties and evolve ways and means for further improvements.
- 6.11 The Nodal Officer shall not be changed frequently.
- 6.12 Any reluctance in the discharge of duties shall be viewed seriously and shall be a valid reason for initiating disciplinary action against the delinquent officer.

7. OFFICER- IN-CHARGE OF THE CASE

- 7.1 As soon as an information of institution of case against the U.T. is received by the Department or it decides to institute a case or prefer an appeal etc., it shall be incumbent upon the Administrative Department/ Head of the Office concerned to appoint an efficient officer as officer-in-charge of the case who shall be authorized to sign Vakalatnama/Affidavits etc., provide brief of defense/facts of the case to be presented before the Court, relevant documents, departmental Laws and Rules/instructions/circulars etc. having bearing on the matter in dispute to the Counsel. In important cases, the Administrative Department shall appoint an officer well versed with the finer points, (preferably an officer handling the issue in hand) of the case as additional officer in charge to assist the officer in charge in bringing the material points before the Court.
- 7.2 The officer in charge will be responsible for collecting the factual data, preparing para wise factual report/comments as far as practicable and briefing the case accordingly to the Counsel for the U.T. One copy of the factual report may be sent to the Counsel for the U.T. through e-mail also. If the factual report is not provided in time to the concerned Counsel, it shall also be the duty of the concerned Counsel to inform the Department regarding it. While appointing officer in charge, it shall be kept in mind that the appointment of the officer in charge is not a mechanical process but a well-considered decision, because the justice to be delivered in the case hinges on his performance.
- 7.3 Officer in-charge of the case shall obtain the information regarding the present status and the next date of hearing of the case. He shall also collect all necessary information and ensure

- that necessary pleadings are filed within time. The Nodal Officer/Counsel concerned shall extend full cooperation to officer-in-charge of the case and ensure timely preparation and submission of necessary pleadings.
- 7.4 The officer in charge, if deems fit, shall arrange meeting with the Counsel for the U.T handling the case and brief him about the facts of the case as well as department's point of view within reasonable time.
- 7.5 The officer in charge shall remain present in Court on every date of hearing and shall meet the Counsel for the U.T. on the preceding day of the date of hearing for providing assistance, if so required.
- 7.6 The officer in charge shall immediately, after the decision to file an appeal or contesting a case is taken, contact the Counsel for the U.T. with complete record of the case, brief him and get the appeal / reply drafted.
- 7.7 It shall be the duty of the officer in charge to inform about the proceedings or orders of the Court of every date of hearing in the case, to the Nodal officer who will apprise the same to the Secretary concerned of the Administrative Department.
- 7.8 Functions and duties of the officer in-charge of the case and their conduct in the office of Counsel for the U.T. shall conform to the norms as are mentioned in **Annexure-I** to this policy.
- 7.9 The officer-in-charge shall be responsible for immediate receipt and submission of the copy of the decision.
- 7.10 Any reluctance in the discharge of duties mentioned here in above, shall be viewed seriously and shall be a valid reason for initiating disciplinary action against the delinquent official.

8. ACCOUNTABILITY

- 8.1 Strengthening accountability of all the stakeholders/ duty holders in the management and conduct of litigation shall be of key importance for successful implementation of the policy at various levels. The Head of the Department, District Heads of various departments, Counsel, members of the Standing Committees, Nodal Officer and Officer-in charge must ensure that any laxity/negligence on the part of any officers/Counsel entrusted with any case is taken seriously and appropriate action shall be taken promptly. Any imposition of cost and adverse observation of the Court with regard to conduct of any officer/official or the lawyers must not be taken leniently.

- 8.2 As part of accountability, there must be critical appreciation of the conduct of cases. Meritorious cases which have been lost must be reviewed and subject to detailed legal scrutiny to ascertain responsibility and take action accordingly.
- 8.3 The Counsel for the U.T. shall appear in Court with adequate preparation.
- 8.4 The Counsel for the U.T. shall inform the officer in charge regarding any direction /order of the Court and apply for the copy of the order on the same day or latest by the next working day.
- 8.5 The officer in charges of the cases have expressed at times their grievances against the functioning of the Counsels on the panel of the U.T. There needs to be a set mechanism to redress such grievances. All such grievances if brought to the notice of the Law Department shall be referred to a committee comprising of:
1. Advisor to Administrator - Chairman
 2. Concerned Secretary - Member
 3. Secretary Law - Member
 4. DIGP - Member
 5. Director of Prosecution - Member
 6. Concerned Dy. Secretary/Joint Secretary
Nodal Officer of the Administrative
Department - Member Secretary
- 8.6 The above committee shall examine the grievance in the light of the explanation of the Counsel concerned, offering an opportunity of personal hearing, if so required, to the concerned, prepare a report and shall place it before the U.T. Level Empowered Committee for consideration.
- 8.7 The committee shall also suggest ways and means to check the recurrence.

9 U.T. LEVEL EMPOWERED COMMITTEE

- 9.1 There shall be a U.T. Level Empowered Committee comprising of: -
1. The Advisor to the Administrator : Chairman
 2. All Secretaries : Member
 3. Law Secretary : Member Secretary
 4. DIGP : Member
 5. Chief Conservator of Forest : Member
 6. Director of Prosecution : Member

9.2 Functions of the committee: -

- (i) To overview implementation of the Policy and management of litigation at all levels, formulate policies/guidelines for scrutiny etc.;
- (ii) To encourage and strengthen Alternative Dispute Resolution mechanism as cost effective and time saving method of settling disputes/grievances;
- (iii) To advise on important policy matters relating to class of cases, and all other matters incidental to proper management and conduct of litigation;
- (iv) To enhance accountability on the part of Officials and Public Prosecutors/ Counsels;
- (v) To recommend action in cases of gross misconduct or dereliction of duty or impropriety in any administrative decision of concerned office, in respect of any class of cases or any individual case of importance and take suitable measures to enforce accountability on the part of all stake holders;
- (vi) To consider the major causes of litigation and recommend suitable measures to reduce litigation;
- (vii) To review the performance of U.T. Counsels and suggest measures to strengthen accountability on their part;
- (viii) To defend the bonafide decisions and actions of the U.T. Administration and the Government Servants under the administrative control of the U.T. Administration against vexatious and frivolous complaints, investigations, litigations, etc.
- (ix) To recommend to the U.T. Administration for requiring a Government Servant under the administrative control of the U.T. Administration to vindicate his actions in a Court of Law.
- (x) To initiate Suo motu litigation by following principle of natural Justice in matters it deems fit.
- (xi) To take any other action in interest of the U.T. Administration and Government Servants under its administrative control.
- (xii) To evaluate impact of the present policy, recommend improvement in the litigation policy and strengthen institutions concerning monitoring, management and conduct of litigation.

9.3 The meeting of the committee may be convened at any point of time, if the situation so requires, but shall be convened at least once in a year.

9.4 The Law Department may place any matter related to monitoring of litigation or implementation of the litigation policy before the U.T. Level Empowered Committee for its decision.

Explanation: For the purpose of this policy, Government Servants shall include those government servants who were discharging their duties under the administrative control of

U.T. administration when the action/incidents under scrutiny took place or when the complaint/investigation/litigation etc. gets initiated.

10. PRE-APPEAL MONITORING COMMITTEE

10.1 There shall be a Pre-appeal Monitoring Committee/ Standing Committee in each Administrative Department comprising of following: -

- | | |
|--|---------------------|
| 1. Concerned Secretary | : Chairman |
| 2. Secretary Law | : Member |
| 3. Secretary/ Department of Finance not below the rank of Deputy Secretary Finance (In matters involving finance implications) | : Member |
| 4. Secretary/ Department of Personnel not below the rank of Deputy Secretary (In service matters) | : Member |
| 5. Concerned Joint Secretary/Deputy Secretary/ Nodal Officer of the Administrative Department | : Member Secretary. |

10.2 Functions of the committee: -

- (i) To make recommendation to Advisor to Administrator regarding SLP/No SLP before the Hon'ble Supreme Court against the judgment of the Hon'ble High Court or Appeal/No Appeal before the Divisional Bench of the Hon'ble High Court against the Judgment of Learned Single Judge of the Hon'ble High Court.
- (ii) To make recommendation to Advisor to Administrator regarding Appeal/No Appeal against the judgment of Civil Services Appellate Tribunal/ Subordinate Courts.
- (iii) The Committee while making recommendation shall consider the rulings of the Courts, observations and opinion of the Counsels appearing on behalf of the U.T.as well as cost of litigation on exchequer. It would be imperative that similar controversies which are already decided by the Hon'ble Apex Court or Hon'ble High Courts are not taken to the Hon'ble Supreme Court for adjudication again and again specially in service matters of employees.

10.3 The Member-Secretary of the said Committee shall ensure: -

- (i) That, all relevant material shall be made available to the members at least 5 days prior to the time fixed for the meeting in the format as per **Annexure-II** annexed to this policy. The notice of the meeting shall also be sent to the members of the Committee through E-mail.
- (ii) That, meeting has to be convened within 7 days from the date of receipt of copy of judgment in the office.

10.4 In urgent cases, the recommendation for Appeal/No Appeal may be made by the Committee through circulation process.

- 10.5 Members from Department of Personnel and Finance shall examine and seek approval up to appropriate level prior to the meeting, regarding their department's stand so as to be prepared to express authenticated opinion.
- 10.6 The Counsel appearing on behalf of the U.T. shall ensure to apply for and obtain certified copy of the judgment promptly.
- 10.7 The certified copy of judgment is not mandatory for convening the meeting. The copy of the judgment downloaded from the website of the Court is sufficient for convening the meeting of pre-appeal monitoring committee/standing committee.
- 10.8 The decision of appeal or no appeal once taken shall be final and shall not be re-opened except on discovery of new facts, misconception or if there is an error apparent on the face of the record.
- 10.9 Every inaction or delay by an official at any stage shall attract disciplinary action under the rules applicable to him.
- 10.10 The Law Department will issue detailed instructions to ensure timely filing of appeals/ review/ SLP's, from time to time.
- 10.11 Responsibility will be fixed on erring officer/official, if the delay occurs without sufficient reasons.
- 10.12 If the Committee is not in unison regarding filing Special Leave Petition and not to file Special Leave Petition, or file an Appeal or not to file an Appeal, the matter shall be referred to the Advisor to Administrator for final decision. The opinion of filing Special Leave Petition and not to file Special Leave Petition, or file an Appeal or not to file an Appeal of every member with reasons thereof shall be narrated in the minutes of the meeting.
- 10.13 The Counsel or Law Secretary, while giving his opinion for filing appeal/further appeal shall mention the substantial question of law involved in the cases, where appeal lies only upon substantial question of law and not otherwise.
- 10.14 Once the Advisor to Administrator has taken a decision of appeal/ no appeal in a particular matter, then similar nature of cases shall not be placed again before the Committee. The Administrative Department itself may take decision of appeal/no appeal as per the earlier decision.
- 10.15 The Pre-Appeal Monitoring Committee/Standing Committee shall:
 - a. examine thoroughly each and every case on merits and shall give reasons for Appeal/ No Appeal, after duly considering relevant Act, Rules, Notifications, Circulars, Judicial precedents and all other relevant material;
 - b. not make recommendation for appeal merely for the reason that:

- (i) it will cast financial burden on the exchequer,
- (ii) it is safe to take the verdict of the appellate Court,
- (iii) it will affect other similar cases pending in the Courts, though otherwise the case is not fit for agitating in appeal.

11. FILING OF APPEALS

- 11.1 Appeals shall not be filed against ex-parte, ad interim orders unless the stakes are high or the order is against public interest. Attempt must be made to first get the order vacated/set aside. An appeal may be filed against an ex-parte order only if the order is not vacated and the continuation of such order causes prejudice especially in matters of public importance.
- 11.2 Writ Petitions shall not be filed against an order of the Service Appellate Tribunal, unless: -
- (i) the order is contrary to Service Rules and /or in violation of settled principles of law, or
 - (ii) there is apparent error of facts, or
 - (iii) the order will have impact on other service cadre and cast financial burden, or
 - (iv) the order will adversely affect the discipline in the services or lower down the morale of the members of services.
- 11.3 Writ Petitions will not be filed ordinarily against orders of the Service Appellate Tribunal: -
- (i) in routine, where case of an individual employee does not have any major repercussions and does not set a precedent, only on the ground that it has financial implications;
 - (ii) in cases where the matter pertains to pension or retirement benefits having no likelihood of any legal principal or apprehension of any precedent being settled and financial implications of less than Rs.5 lacs.
- 11.4 Appeals must be filed intra Court i.e., in the appellate Court of first instance or to the Hon'ble High Court in exceptional circumstances. Direct Special Leave Petitions to the Hon'ble Supreme Court must not be resorted to, except in extraordinary cases.
- 11.5 Appeals to Hon'ble Supreme Court should be preferred only where: -
- (i) important point of law is involved; or
 - (ii) judgment adversely affects the public finances or public conscience at large; or
 - (iii) the Hon'ble High Court exceeds its jurisdiction or declares any enactment ultra-virus or takes an unfounded interpretation of statute.

- 11.6 In case of concurrent and reasoned findings of two Courts, appeal should be preferred exceptionally on sound reasoning only.
- 11.7 In revenue matters appeals will not be filed: -
- (i) where the stakes are not high and are within the pecuniary limits of the competent revenue authority; or
 - (ii) where the case is covered by settled principles of law.

12. PRE-LITIGATION MONITORING COMMITTEE

- 12.1 Prior to initiation of litigation against the U.T., if notice as a statutory requirement or demand of justice is served by the person concerned, it is an opportunity for the U.T. to redress the genuine grievance and avoid unnecessary litigation.
- 12.2 Notices need to be considered with a view that every claim against the U.T. is not illegal and it is not always necessary to resist the same. The Administrative Department shall take decision on the notice or representation with this spirit instead of avoiding the decision, in a time bound manner in place of leaving the matter for the Courts to decide.
- 12.3 Notices for Demand of Justice or representation when received shall be entered in a separate register by the receipt clerk and shall be immediately placed before the Nodal Officer.
- 12.4 There shall be a Pre-Litigation Monitoring Committee in each Administrative Department comprising of:
1. Concerned Secretary : Chairman
 2. Joint Secretary/Deputy Secretary of Finance Department
 3. (In matters Involving financial implications) : Member
 4. Joint Secretary/Deputy Secretary of Department of Personnel (In service matters) : Member
 4. Joint Secretary/ Deputy Secretary/ Nodal Officer of the Administrative Department : Member-Secretary
- 12.5 Every Notice for Demand of Justice shall be placed before the Pre- Litigation Monitoring Committee and the Committee shall take final decision with respect to the relief sought in the notice.
- 12.6 Administrative Department considers that any legal issue is involved in the matter and legal opinion is required for resolving the issue prior to the notice being placed before the Committee, the Administrative Department, after framing the question of law, may refer the matter for legal opinion to Law Department.

- 12.7 Nodal officer of the Administrative Department / Member Secretary of the said Committee shall place the opinion of the Law Department in the meeting of the Committee for its decision.
- 12.8 The Pre-Litigation Monitoring Committee shall:
- (a) examine thoroughly every case on merit and shall pass reasoned order after due consideration of legal opinion, relevant Acts, Rules, Notifications, Circulars, Judicial precedents and other relevant material;
 - (b) accept the claim keeping in mind principles of natural justice;
 - (c) consider accepting the claim partially to the extent found genuine while refusing the rest;
 - (d) take a decision within the time stipulated by the regulating laws.
- 12.9 The Member Secretary shall ensure:
- a. That, opinion of Law Department and all relevant materials are made available to the members at least 5 days in advance for final decision;
 - b. That, reference of all cases decided earlier on the same point with reference in respect to the case of any other party or same party and also the cases pending in Courts on the point in issue are placed before the Committee.
 - c. That, meeting of the Committee is convened at the earliest but not later than 7 days from receipt of notice and within 5 days from the receipt of opinion of Law Department for final decision.
- 12.10 The decision of the Committee taken on the said notice maybe communicated along with reasons either by post or through Email to the concerned person without delay and in all probabilities prior to the expiry of the notice period.
- 12.11 The Administrative Department shall ensure prompt compliance of accepted claims.
- 12.12 The Administrative Department shall maintain the record of every notice so received, meetings held, decision taken and communication of the result thereof to the person concerned.
- 12.13 The Nodal Officer shall be responsible for immediate action on the notice or representation received.
- 12.14 Every inaction or delay by an official dealing with notices shall attract disciplinary action under the rules applicable to him.
- 12.15 If Administrative Department considers that representation received from any person, would lead into litigation, then such representation shall be placed before the Pre-Litigation

Monitoring Committee and such representation will be decided within a period of three months.

13. LEGAL AND FINANCIAL ASSISTANCE MONITORING COMMITTEE

- 13.1 More often, the complaints, investigation, legal proceedings etc. are initiated against the Government Servant in his personal capacity against the act and conduct of the Government Servant in discharge of his official duties or matter arising out of or connected with his official duties or his official position or proceedings instituted by a Govt. Servants to vindicate his official conduct. Under such circumstances, the U.T. Administration should provide legal and financial assistance to a Government servant for the conduct of legal proceedings by or against him.
- 13.2 In this regard, the O.M. No.F.45/5/53-ests(A), dated 08-01-1959, read with C.L.,313 to G.F.R. [G.I., M.F., File No.F.23(I)-E. II(A)/76] has been circulated for information and guidance by the MHA, is at **Annexure-III** to this Policy.
- 13.3 With respect to the said OM, it is clarified that the word Government refers to the U.T. Administration of Dadra and Nagar Haveli and Daman and Diu for the purposes of the acts done by the Government Servant while under the administrative control of the U.T. Administration of Dadra and Nagar Haveli and Daman and Diu at the time of the commission/omission of the said act/decision and/or at the time of initiation/continuation of the complaint/investigated/litigation etc. More specifically, with respect to paragraph 2 (a) of the said OM, the Central Government, other State Governments or their agencies shall not be included in meaning of the word Government/State.
- 13.4 There shall be a Legal and Financial Monitoring Committee in each Administrative Department comprising of following: -
- | | |
|--|---------------------|
| 1. Adviser to Hon'ble Administrator | : Chairman |
| 2. Secretary of the concerned department | : Member |
| 3. Secretary Law | : Member |
| 4. Finance Secretary/Officer from Department of Finance not below the rank of Deputy Secretary | : Member |
| 5. Secretary (Personnel)/Officer from Department of Personnel not below the rank of Deputy Secretary | : Member |
| 6. Concerned Joint Secretary/Deputy Secretary /Nodal Officer of the Administrative Department | : Member Secretary. |

13.5 Functions of the committee: -

- (i) To examine each case/matter on merit referred to it by the concerned department/Government Servant for determining whether the matter is eligible for legal &

financial assistance by U.T. Administration in light of the relevant rules and the OM referred to above.

(ii) To recommend to the Administrator on the question whether it is required by the Government Servant to vindicate/defend his official conduct by instituting proceeding before the Supreme Court, the High Court or any of the Trial Courts/fora.

(iii) The Committee while making recommendation shall consider the rulings of the Courts, observations and opinion of the Counsels as well as cost of litigation on exchequer. It would be imperative that similar controversies which are already decided by the Apex Court or High Courts are not taken to the Supreme Court for adjudication again and again.

13.6 The Member-Secretary of the said Committee shall ensure: -

(i) That all relevant material shall be made available to the members at least 5 days prior to the time fixed for the meeting. The notice of the meeting shall also be sent to the members of the Committee through E-mail.

(ii) That meeting is convened within 7 days from the date of reference of the matter to the Committee by the concerned department/Government Servant.

13.7 In urgent cases, a decision may be taken by the Committee through circulation.

13.8 The certified copy of relevant documents is not mandatory for convening the meeting. The copy of the relevant documents downloaded from the website of the Court/Authority/Office/etc. shall be sufficient for convening the meeting of standing committee.

13.9 The Law Department will issue detailed instructions to ensure prompt action, from time to time.

13.10 If the Committee fails to reach a consensus regarding the action to be taken with respect to the matter at hand, the matter shall be referred to the Administrator for final decision. The opinion of every member with reasons thereof shall be narrated in the minutes of the meeting.

13.11 Once the Legal & Financial Monitoring Committee has taken a decision in a particular matter, then similar nature of cases shall not be placed again before the Committee for making recommendation.

13.12 The decision once taken shall be final and shall not be re-opened except on discovery of new facts, misconception or if there is an error apparent on the face of the record.

13.13 The committee shall examine thoroughly each and every case on merits and shall give reasons for the action recommended.

14. MATTERS COVERED BY PREVIOUS JUDGMENTS

14. A good number of cases may involve similar nature of claims. Each Department will strive to redress and settle claims of the applicants/ employees/ citizens, if the claim is found covered by any final decision of the Court/Department, for example, number of service matters of similar nature can be disposed of at the level of the Department itself without compelling the litigant to go to the Court. In this manner, the Departments would be acting as efficient litigants.

15. APPOINTMENT OF COUNSEL FOR THE U.T.

- 15.1 The U.T. litigation, apart from revenue matters, service matters, matters of public importance involves other variegation of cases also. It is important to select and appoint efficient Counsels to handle the U.T. litigation and safeguard the U.T. interest.
- 15.2 All Counsels/Advocates for efficient and effective discharge of the duties shall be selected by the Pre-Appeal Monitoring.
- 15.3 The Committee shall screen the aspirants possessing minimum experience of practice in Hon'ble High Court/Other Courts as laid down in the table herein below or as prescribed by the U.T. Administration from time to time or any law for the time being in force: -

| S.No. | Post | Minimum experience of practice |
|-------|--|--------------------------------|
| 1. | Government Counsel/ Government Pleader | 07 |
| 2. | Additional Government Counsel /Additional Government Pleader | 05 |
| 3. | Public Prosecutor | 07 |
| 4. | Assistant Public Prosecutor | 03 |

- 15.4 For ascertaining effective experience and competence to handle U.T. litigation in Courts the Committee shall be at liberty to formulate its own principles and procedure.
- 15.5 The U.T. has multifarious type of litigation and services of Counsels competent to handle them are necessary. At the time of selection of the Standing Counsels to represent the U.T. the specific requirements of expertise to cater to the need of different Administrative Departments shall be kept in consideration, so that U.T. interest is safe guarded and the U.T. may not have to look around time and again to engage some expert Counsel on higher remuneration to conduct the case.
- 15.6 The Committee shall submit the list of the selected Counsels to the Law Department for further necessary action. The selection process shall be final only after the approval at the appropriate level.

16. WORK DISTRIBUTION

- 16.1 The U.T. Administration shall carefully select Counsels to represent the U.T. in the Courts and take optimum advantage of their experience, skill, proficiency and legal acumen. For the best results, work amongst the Counsels for the U.T. shall be distributed rationally. The expertise in any particular field of a Counsel may be considered for specific cogent reasons.
- 16.2 Additional Solicitor General is a Constitutional Authority as appointed to share his responsibility and they are on a higher pedestal in the system. Administrative Department shall not demand appointment of Additional Solicitor General in a routine manner for less important matters. If appointment of Additional Solicitor General is required at a later stage then opinion of Advocate concerned handling the case for such proposed allocation should be placed on record.
- 16.3 The frequent request for change of Counsel or assigning the case to Additional Solicitor General at a later stage shall be considered only on the mentioning of specific cogent reasons.
- 16.4 The Law Department shall evolve a system to ensure equal and rational distribution of work amongst the Counsels for the U.T. The Law Department shall review the present system of distribution of work and take measures to rationalize the distribution.

17. REMUNERATION AND INFRASTRUCTURE FOR THE COUNSELS

- 17.1 Though the remuneration to the Counsels for the U.T. cannot be as lucrative as paid by a private litigant but still the remuneration should be reasonable enough to attract more competent Counsels to serve the U.T. The remunerations should be reviewed and revised from time to time.
- 17.2 The infrastructure at all levels should be conducive for efficient working. The U.T. shall endeavor to provide suitable office accommodation, necessary staff and communication facility for efficient working.
- 17.3 Facility of access to latest judicial pronouncements is a basic need for good performance of a Counsel and the U.T, shall endeavor to provide the same at all levels.

18. ADJOURNMENTS

- 18.1 Unnecessary and frequent adjournments should be avoided by the Nodal Officers / Counsels. The Lawyers should also point out misjoinder or non-joinder of parties so that officials not connected with the matter are not harassed.
- 18.2 In fresh litigation where the U.T. is a defendant or a respondent in the first instance, a reasonable adjournment may be applied for obtaining instructions. However, it must be ensured that such instructions are made available and communicated within reasonable time

before the next date of hearing. Where instructions are not forthcoming, the matter must be reported to the Nodal Officer and, if necessary, to the Head of the Department concerned.

- 18.3 If it is not possible to file necessary pleadings in the Court on the date fixed, the officer-in-charge of the case shall contact the office of Additional Solicitor General/Counsels/Advocates in order to file an appropriate application seeking further time to file such pleadings. However, the above procedure shall not be taken recourse to in a routine manner and further time should be prayed for, only on reasonable sound grounds.
- 18.4 In Appellate Courts, if the paper books are complete, then unnecessary adjournments must not be sought in a routine manner. The matter must be dealt with at the first hearing itself. In such cases, adjournments should be applied for only if a specific query from the Court is required to be answered and for which instructions are required to be obtained.
- 18.5 Cases in which costs are awarded against the U.T., as a condition for grant of adjournment should be seriously viewed.
- 18.6 The persons responsible for the default entailing the imposition of costs should be identified and suitable action should be taken against them.

19. DRAFTING

- 19.1 Drafting is the backbone of the litigation. Parties can argue their case on the basis of pleadings only.
- 19.2 Drafting of Suits, Replies, Appeals, Writs or Special Leave Petitions should be in compliance with the settled norms of drafting and pleading.
- 19.3 Administrative Department is responsible for providing factual data to the Counsel and vetting the draft on facts, if so required. The Administrative Department should ensure true, chronological averment of facts. No fact should be suppressed. The Administrative Department may further consult and follow the circulars issued by the Law Department in this behalf.
- 19.4 Drafting by the Counsels for the U.T. shall be invariably vetted on law points by the concerned Counsel. Drafting should be in compliance with the rules of the Court. The committee constituted for review of performance of Counsels shall review quality of drafting also and if necessary, take appropriate action.
- 19.5 The miscellaneous applications filed during litigation, for restoration, condonation of delay etc. need to be drafted cautiously and not in a routine slip shod manner. The application should be drafted catering to the need of the particular case.

- 19.6 Casual drafting shall be viewed seriously by the committee constituted for reviewing the performance of Counsels for the U.T.
- 19.7 The Counsels for the U.T shall be prompt in drafting and presentation. As soon as the case is assigned and the record is made available, the drafting work should start and not take more than 7 days to conclude. In case any further information is required, the officer-in charge /Nodal Officer shall provide the same within 2 working days. Time is the essence of the policy and the Administrative Department as well as the Counsels for the U.T. need to adhere to it. Deviations if any are to be viewed seriously and the consequences shall follow.

20. TIMELY FILING OF APPEALS / REVIEWS /S.L.P.s

- 20.1 It is observed that sometimes meritorious cases are lost because Appeals/Reviews/S.L.P.'s are filed beyond the period of limitation and without any proper explanation of such delay. At times, particularly in cases where high stakes are involved, such delays may not always be bonafide and therefore, to curb this malpractice, timely filing of Appeals/Review/SLP is essential.
- 20.2 Whenever an order is passed by a Court, the officer in-charge shall obtain opinion of Counsel on it and bring the matter to the notice of the competent authority. In case it is decided to prefer an Appeal/Review/SLP, Administrative Department shall ensure that such Appeal/Review/SLP shall be filed well within the stipulated time. If there is delay in filing Appeal/Review/SLP or failure to comply with a Court order leading to filing of a contempt petition without sufficient cause, the matter shall be examined by the concerned department to find out reasons for such delay/failures and also to identify the erring officer/ employee responsible for such delay/failure and take suitable action against them if there were no reasonable and sufficient grounds for such delay/lapse.
- 20.3 If a Writ, Appeal/Review/S.L.P. is dismissed by the Hon'ble High Court or the Hon'ble Supreme Court on the grounds of laches by rejecting application for condonation of delay, the concerned department shall invariably inquire into the matter to fix the responsibility and ensure that appropriate disciplinary action is taken against the erring officer/ official/Counsel.

21. ALTERNATE DISPUTE REDRESSAL

- 21.1 The U.T. should adopt recourse to Alternative Dispute Redressal system in the cases where it is practically feasible to avoid prolonged litigation in the Courts.
- 21.2 Arbitration and mediation clause should be invariably included in the U.T. contracts. The U.T. should prepare a panel of arbitrators of integrity and sound legal knowledge.
- 21.3 The awards of the arbitrators shall not be challenged except upon sound and logical reasoning.

- 21.4 The U.T. shall endeavor to resolve disputes through Alternate Dispute Resolution in labour cases, insurance claim cases, motor accident claim cases, cases arising out of petty contracts in which huge financial implications are not involved and other cases of individuals where they do not create precedents. The Administrative Department shall consider and take a decision about the terms of compromise and authorize a competent officer to appear and compromise the matter in the Court.

22. SPECIALISED LITIGATION

- 22 Proceeding seeking judicial review of contracts and tenders shall be defended in view of good governance and Constitutional mandate. Where the progress of project is held up in judicial proceedings, the case shall be taken up vigorously in public interest, however, in case where proceedings are found on the allegation of breach of natural justice and there is substance in the allegation the case may not be proceeded, order may be set aside and reviewed after proper hearing.

23. PUBLIC INTEREST LITIGATION (PIL)

23. Public Interest Litigations must be taken seriously. Several PILs are filed for collateral reasons including publicity or for the individual benefit of third party, such litigation should be exposed as not bonafide. In the PILs where projects are stayed by interim orders of the Court and in case such PIL is rejected or dismissed, prayer for imposing condition to pay compensation should be insisted upon, before the Court by the Department.

24. IMPORTANT CASES

- 24.1 The Administrative Department shall maintain a record of all important cases pending and shall notify the same to the respective Counsels for the U.T. Extra vigilance is required in monitoring these cases and any default or negligence shall be punished exemplarily.
- 24.2 Contempt cases are matter of great concern and create embarrassing situations for senior officers. The Nodal Officer of the Administrative Department should maintain a record of Court directions, orders and judgments and ensure compliance immediately if decision of no appeal is taken otherwise must file an appeal within time and obtain the stay. In case stay is not granted by the Appellate Court, the order appealed against, shall be complied with under protest subject to the decision in appeal.
- 24.3 The reply to contempt petition/ compliance report shall be signed by the contemnor/ his successor in office only and not by the coordinator save in exceptional cases.

25. INTER DEPARTMENTAL /PUBLIC SECTOR UNDERTAKING LITIGATION

- 25.1 All matters between different Departments of the U.T., between Department and Public Sector Undertaking and between Public Sector Undertakings shall be referred to the U.T. Level Empowered Committee.
- 25.2 No case shall be filed in Court by any Department or Public Sector Undertaking against each other without prior approval of the U.T. Level Empowered Committee. It shall be the duty of the Secretaries of the concerned Departments/Public Sector Undertakings to refer the matter to the U.T. Level Empowered Committee.

26. LITIGATION IN SUBORDINATE /TRIAL COURTS

- 26.1 Criminal cases up to the Court of Chief Judicial Magistrate are handled by Assistant Public Prosecutor (APP). This wing of the Assistant Public Prosecutor is under the control of the Director of Prosecution and Home Department. Appeals against the judgment of acquittal passed by the Magisterial Courts lie either to the Hon'ble Court of Sessions or to the Hon'ble High Court as per the provisions of the Criminal Procedure Code. Since the record of the Assistant Public Prosecutor forms the basis of appeal and therefore, it is essential that all the statements recorded during trial and other relevant documents are available on record while taking a decision of appeal or no appeal. The Assistant Public Prosecutor (APP) shall ensure that the record is kept updated regularly.
- 26.2 Dealing of Criminal cases [trial by the Session Judge/ Addl. Session Judge/Special Judge (SC/ST Act)/ (NDPS Act)/ (POCSO Act)/(ACD) etc.]: -
- (i) Proper attention for examination of witnesses should be given during trial to avoid adverse effects on the interests of the U.T. The officer in charge scheme should be adopted in dealing with the cases, especially in the cases under the Prevention of Corruption Act 1989, POCSO ACT 2012, NDPS ACT and Section 302,376,304 B of IPC.
 - (ii) The Final Judgment and Order passed by either the Hon'ble High Court or Trial Court in a Particular case is not end in Justice Delivery System. Once the Judgment and Order is delivered by the Court, the Public Prosecutor/Special Public Prosecutor/ Additional Public Prosecutor/ Assistant Public Prosecutor shall file application for copy of judgment and order on the same day of pronouncement of the judgment and order or on the next day. The same is required to be scrutinized by the Public Prosecutor/Special Public Prosecutor/ Additional Public Prosecutor/Assistant Public Prosecutor who appeared in the matter. The Prosecution Officer concerned has to examine the Judgment and order vis-à-vis the feasibility of preferring an appeal/revision to the next Higher Court and forward his/her reasoned

opinion in the matter to the concerned investigation officer. The said Officer after the requisite processing of the same (providing the comments of Investigation Officer himself and SDPO) has to forward the file to the Superintendent of Police for further comments prior to sending the same to Director (Prosecution). The said file is then forwarded to Home Department through Director (Prosecution) after rendering his expert opinion, to the Secretary (Home) for the decision of the Government.

- (iii) The Director General of Anti-Corruption Bureau, in cases under the Prevention of Corruption Act shall send the original prosecution file and requisite extra copies (four clear and legible uncertified copy of the judgment) of the judgment of the Trial Court along with their recommendations of Appeal/No Appeal within 30 days from the date of pronouncement of judgment by the Trial Court, to the Director of Prosecution. It shall be the responsibility of the Anti-Corruption Bureau to provide extra set of complete prosecution file to the Advocate/ Public Prosecutor for the U.T at Bombay in case, a decision of filing an Appeal against a judgment has been taken by the Director of Prosecution, after approval of Secretary Home.
- (iv) The Director of Prosecution shall ensure the presence of the Public Prosecutor/Special Public Prosecutor/Additional Public Prosecutor/ Assistant Public Prosecutor before the Trial Court at the time of hearing of the case and if the Public Prosecutor/Special Public Prosecutor/ Additional Public Prosecutor/ Assistant Public Prosecutor does not appear before the trial Court, the Director of Prosecution shall propose action against the defaulting Public Prosecutor/Special Public Prosecutor/ Additional Public Prosecutor/ Assistant Public Prosecutor to the Home Department.
- (v) The Counsel of the U.T. Hon'ble High Court, Bombay shall also ensure the presence of other Additional/Deputy/Assistant Advocates before the High Court at the time of hearing of the cases.

26.3 Civil cases in subordinate Courts are conducted by Government Pleader. It is a common grievance of Government Pleader that officers-in-charge of the cases does not provide the record to them in time. Similarly, witnesses do not turn up on some or the other pretext resultantly having adverse effect on U.T. interest.

26.4 The District Magistrate/Collector shall appoint a Nodal Officer competent to bridge the gap between the Government Pleader and the officers-in-charge. The Nodal officer shall keep a track of the pending cases of the U.T. on the civil side and ensure that records are supplied with, reply are submitted in time and the officers-in-charge and other witnesses appear in

evidence, whenever the Court requires. The officers-in-charge negligent in the discharge of their duties shall be liable for stringent disciplinary action.

- 26.5 The decision of appeal or no appeal in civil cases shall be taken within 15 days from the date of receipt of certified copy of decree/order or judgment and in case decision to prefer an appeal is taken, the same should be filed within the period of limitation. Timely filing of appeal shall be the joint responsibility of the officer-in-charge and the Head of the Department concerned.
- 26.6 It is generally observed that delay occurs due to tendency of departmental witnesses of avoiding their presence as witness in Court, hence the Controlling Authority shall ensure that the departmental witness will not unnecessarily avoid appearing as witness in Court cases. Such witness would be liable for disciplinary action, if the Government Pleader/Public Prosecutor/Court recommends that delay has accrued or the U.T. has lost the case, due to his non-appearance.

27. REVIEW OF PENDING CASES, RULES, CIRCULARS AND NOTIFICATIONS

- 27.1 The Administrative Department at level shall review all the pending cases at least every 3 months. The cases which have become infructuous by the lapse of time or the point involved in it has attained finality, need not be perused and should be withdrawn.
- 27.2 The Head of the Department shall convene the meeting at least once in every month, to review the progress of all pending Court cases and send the minutes of the meeting to the Administrative Department concerned.
- 27.3 The cases hinging on the settled principles of law or on principles laid down in other similar matters and have attained finality should not be repaginated. If such cases are pending, they shall be reviewed and withdrawn in the Courts.
- 27.4 The rules, circulars and notifications shall be made available on the official website of the portal of the Administrative Department and shall be reviewed from time to time and suitably amended to be in consonance with the established principles of law laid down by judicial pronouncements after having attained finality.

28. LITIGATION EXPENSES AND PAYMENT OF SPECIAL FEES

- 28.1 The process of litigation requires funding also and the process should not be delayed or defeated for want of timely funding. To defray the litigation expenses, a sum may be fixed for every level of litigation and the Administrative Department must provide the amount to the officer-in charge at the first instance, to be paid to the Counsel for the U.T. for defraying the expenses of typing, photo copy etc. This will save the time consumed in raising the demand by the Counsel, procuring the amount by the officer-in-charge in due process and making the payment to the Counsel. If the expenses turn out to be more than the fixed

amount, the Counsel for the U.T. shall submit a detailed bill and payment shall be ensured without delay by the Nodal Officer concerned. The Counsel for the U.T. shall not delay the presentation only on the ground of pendency of payment of expenses.

- 28.2 The Counsel for the U.T. shall ensure that a demand more than the rates prescribed in the circular is not raised and violations shall be noticed by the review committee while reviewing the performance.
- 28.3 Wherever the case is considered a special case and special fees are sanctioned, the Administrative Department shall send the bill in triplicate after proper verification in the prescribed manner to the Finance Department within 10 days after the fees become payable.

29. TRAINING

29. Training programs, seminars, workshops and refresher courses for Officers of Legal Service and Nodal Officers will be encouraged. There shall be continuous legal education for Officers of Legal Service and Nodal Officers with particular emphasis on identifying and improving areas of specialization. Law Department in consultation with experts and all concerned will prepare special courses. The training programs, seminars, workshops and refresher courses will be conducted at regular intervals and for this necessary co-operation and assistance will be rendered by all other Departments/ Academies, whenever needed. Law Department will conduct these training programs/seminars/ workshops/Legal literacy refresher course at least once in a year.

30. ONLINE MONITORING

- 30.1 A Website named as CCMS (Court Case Management System) should be developed with the objective to monitor the progress of litigation regularly in which U.T. is a party, to improve efficiency in handling cases, to assess the performance of Counsels/Nodal Officer and officer-in-charge, to diagnose flaws to improve and strengthen the system, to reduce unnecessary litigation and multiplicity of litigation and to curb the litigation expenses. The aim of this website is to use information and communication technologies to improve the management of cases and to provide better services to various Departments to manage their cases pending in different Courts.
- 30.2 It is mandatory for all the Nodal Officer of the Departments of the U.T. of Dadra & Nagar Haveli and Daman & Diu to enter every case detail on the CCMS website and shall update their data regularly.
- 30.3 The Head of the Administrative Department/Nodal Officer shall monitor the progress of litigation of their Department regularly through CCMS.

- 30.4 To monitor and updating the CCMS website regularly, the Nodal Officer shall be responsible. One technical staff shall be provided/ deputed by the Administrative Department and Head of Department to the Nodal Officer to facilitate smooth functioning for updating data on the CCMS and other digital work. The Nodal Officer shall convene meetings from time to time with the officers/official(s) of the Litigation Cell to monitor the cases uploaded on the CCMS website. During the course of monitoring by the Nodal Officer, if it is found that data of the Department is not uploaded on the CCMS Website timely or exactly, he may fix the responsibility of the erring Officer/official (s) and shall transmit the same to the authority competent for disciplinary action against the erring officer/official(s).
- 30.5 In the present set up, appointment of Counsel, Officer-in-Charge and Nodal Officers are being made traditionally in hard copy. To encourage digital work, it would be necessary for every department of the U.T. to provide such information through Email simultaneously to the concerned for speedy communication.
- 30.6 Email address of all the Stakeholders i.e. Departments and their functionary's viz., Nodal Officers, Counsels and officials shall be available on CCMS website.

Annexure- I
(See clause 7.8)

Functions and duties of the officer-in-charge of the case

Conduct of the officer-in-charge of the case should conform to the following norms: -

- (i) After appointment, the officer-in-charge shall study the case file, prepare a brief note of the facts and before contacting the Office of Counsel collect all the necessary information, documents/ data, circulars, notification etc. pertaining to the matter involved.
- (ii) The officer-in-charge shall also make necessary communication and coordination with the Legal cell of the Department, so as to ensure that he is well equipped with the relevant information and documents pertaining to the case.
- (iii) The officer-in-charge shall contact the Nodal Officer/ Counsel to whom the case is allotted on the same day and shall follow the instructions given by the Nodal Officer/Counsel in respect to the case in hand. In case, he cannot get the reply/appeal/concerned proceeding prepared or filed on the same day, he shall get an endorsement about the next date from the concerned Nodal Officer/Counsel with specific reasons.
- (iv) The officer-in-charge shall be responsible to make immediate communication to the concerned departmental authority through the Legal Cell about any instructions given by the Office of Counsel.
- (v) The officer-in-charge shall be given direct access to the Head of the Legal Cell so as to ensure that no unnecessary delay is caused in transmitting the information/documents to the Office of Counsel to facilitate speedy disposal of cases.
- (vi) The officer-in-charge shall be responsible to handle each case assigned to him till the litigation is completely set at rest. He shall constantly monitor the Court proceeding in relation to the cases assigned to him and send monthly status report in this regard to the Legal cell of concerned department.
- (vii) It shall be personal responsibility of the officer-in-charge to ensure that the cases are properly defended in the Courts of law.
- (viii) The officer-in-charge of the case, after the pronouncement of the decision of the case, will download the copy of decision from the website of the Court.
- (ix) Officer-in-charge will be appointed by designation as far as possible and in case of transfer or retirement of such officer, he/she shall hand over entire record of the cases before demitting his/ her office to his/her successor in office, who shall continue to be the officer-in-charge. The successor in office shall immediately report to the Head of Legal Cell about such change under due intimation to the Nodal officer.
- (x) In case any adverse order is passed in a particular case, it shall be personal responsibility of the officer-in-charge to immediately contact the office of Counsel with the certified/ authentic copy of the order so as to seek necessary opinion and to act in accordance with opinion forthwith, keeping in mind the aspect of limitation.

- (xi) Any lapse on the part of the officer-in-charge in respect of the case assigned to him shall be treated to be misconduct/ dereliction from duties and appropriate departmental action in terms of the provisions contained under CCS (Conduct) Rules, 1964 and CCS (CCA) Rules, 1965 shall be attracted against him/her.
- (xii) It is enjoined upon all Officer-in-charges of the cases to strictly adhere to the guidelines enunciated in the Dadra & Nagar Haveli and Daman & Diu Litigation Policy, 2021.

Annexure- II
(See clause 10.3)

Format of factual report for the meeting of Pre Appeal Monitoring Committee: -

1. Particulars of the case –
 - (i) Case Number –
 - (ii) Title of Case –
 - (iii) Name of Court-
 - (iv) Date of decision -
 - (v) Limitation of Appeal/Writ/SLP up to –
2. Chronological Details of Facts, Dates and Events of the case/ subject matter of the case.
3. Relevant Act, Rules, Notification, Circular, Guidelines, relevant Judgment.
4. Relief Sought.
5. Judgment Details
 - (i) First Court Judgment Details
 - (ii) Appellate Court Judgment brief (if any)
 - (iii) Second Appellate Court Judgment brief (if any)
6. Pervious Litigation(S) & Action taken (if any)
7. Similar Judgment & Action taken (if any)
8. Opinion of Counsel (with reasoning)
9. Administrative Department view with grounds for filing/not filing appeal.
10. Delay, if any & reasons

Annexure- III
(See clause 13.2)

**ORDERS REGARDING ASSISTANCE TO GOVERNMENT SERVANTS
INVOLVED IN LEGAL PROCEEDINGS**

[Referred to in Decision No.(I) below Rule 19]

*G.I., M.H.A., O.M.No.F.45/5/53-Est. (A), dated the 8th January, 1959, read with C.L. 313 to
G.F. R [G.I., M.F., File No. F. 23(I)-E.II (A)/76]*

**Subject: - Government servants involved in legal proceedings—Provision for
legal and financial assistance**

1. The question has been raised whether, and if so under what circumstances, Government should provide legal and financial assistance to a Government servant for the conduct of legal proceedings by or against him. The following decisions which have been taken in consultation with the Ministries of Law and Finance and the Comptroller and Auditor General are circulated for information and guidance: -
 2. (a) Proceedings initiated by Government in respect of matters connected with the official duties or position of the Government Servant, Government will not give any assistance to a Government servant for his defence in any proceedings, civil or criminal instituted against him by the State in respect of matters arising out of, or connected with, his official duties or his official position. Should, however, the proceedings conclude in favour of the Government servant, Government may, if they are satisfied from the facts and circumstances of the case that the Government servant was subjected to the strain of the proceedings without proper justification, reimburse the whole or any reasonable proportion of the expenses incurred by the Government servant for his defence.
 - (b) Proceedings in respect of matters not connected with official duties or position of the Government servant. Government will not give any assistance to a Government servant or reimburse the expenditure incurred by him in the conduct of proceedings in respect of matters not arising out of or connected with, his official duties or his official position, irrespective of whether the proceedings were instituted by a private party against the Government servant or vice versa.
 - (c) Proceedings instituted by a private party against a Government servant in respect of matters connected with his official duties or position.
 - (i) If the Government on consideration of the case, consider that it will be in the public interest that Government should themselves undertake the defence of the Government servant in such proceedings and if the Government servant agrees to such a course, the Government servant should be required to make a statement in writing as in

Annexure 'A' and thereafter Government should make arrangements for the conduct of the proceedings as if the proceedings had been instituted against Government.

(ii) If the Government servant proposes to conduct his defence in such proceedings himself, the question of reimbursement of reasonable costs incurred by him for his defence may be considered in case the proceedings conclude in his favour. In determining the amount of costs to be so reimbursed, Government will consider how far the court has vindicated the acts of the Government servant. The conclusion of the proceedings in favour of the Government servant will not by itself justify reimbursement.

To enable the Government servant to meet the expenses of his defense, Government may sanction, at their discretion an interest-free advance not exceeding Rs. 500/- or the Government servant's substantive pay for three months, whichever is greater, after obtaining from the Government servant a bond in the form reproduced as Annexure B. The amount advanced would be subject to adjustment against the amount, if any, to be reimbursed as above.

The Government servant may also be granted an advance from any provident fund to which he is a subscriber not exceeding three months' pay or one-half of the balance standing to his credit, whichever is less; this advance will be repayable in accordance with the rules of the Fund.

- (d) Proceedings instituted by a Government servant on his being required by Government to vindicate his official conduct. A Government servant may be required to vindicate his conduct in a Court of Law in certain circumstances [vide Instruction No. (I) below Rule 19]. The question whether costs incurred by the Government servant in such cases should be reimbursed by the Government and if so, to what extent, should be left over for consideration in the light of the result of the proceedings. Government may, however, sanction an interest-free advance, in suitable installments, of an amount to be determined by them in each case on the execution of a bond by the Government servant in the form reproduced in Annexure 'B'.

In determining the amount of cost to be reimbursed on the conclusion of the proceedings, the Government will consider to what extent the Court has vindicated the acts of the Government servant in the proceedings. Conclusion of the proceedings in favour of the Government servant will not by itself justify reimbursement.

- (e) Proceedings instituted by a Government servant Suo motu, with the previous sanction of Government to vindicate his conduct arising out of or connected with his official duties or position.

If a Government servant resorts to a Court of Law with the previous sanction of Government to vindicate his conduct arising out of or connected with his official duties or position, though not required to do so by Government, he will not ordinarily be entitled to any assistance but Government may, in deserving cases, sanction advances in the manner indicated in sub-para (c) (ii) above but no part of the expenses incurred by the Government servant will be reimbursed to him, even if he succeeds in the proceedings.

3. Sub-clause (d) of article 320 (3) of the Constitution requires consultation with the Union Public Service Commission on any claim by a Government servant for the reimbursement of the costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in execution of his duty. In other cases, consultation with the Union Public Service Commission is not obligatory; but it will be open to Government to seek the Commission's advice, if considered necessary.
4. The question whether a case falls under 320 (3) of the so as to requires consultation with the Commission may at times be difficult to determine. It may be stated generally that consultation is obligatory in a case where a reasonable connection exists between the act of the Government servant and the discharge of his official duties; the act must bear such relation to the official duties that the Government servant could lay a reasonable but not a pretended or a fanciful claim that he did it in the course of the performance of his duties.
5. The appropriate authority for taking decision in each case will be the administrative Ministry of the Government of India concerned or Administrators who will consult the Finance and Law Ministries, where necessary. The Comptroller and Auditor General of India will exercise the powers of an Administrative Ministry in respect of the personnel of the Indian Audit and Accounts Department.

By order and in the name of the
Administrator of U.T. of Dadra and
Nagar Haveli and Daman & Diu.

Sd/–

(R. P. Yadav)

Law Secretary

Department of Law & Justice

Secretariat,
Daman.
Dated: 15th October, 2021.
